



भारत का राजपत्र
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सं. १]
५०. १]

मई दिल्सी, शनिवार, ज.पू.रो २, १९९३/पौष १२, १९१४

NEW DELHI SATURDAY, JANUARY 2, 1993/PAUSA 12, 1914

इस बात से कि वह कुछ संख्या की जाती है जिससे कि वह बहुत संतुष्ट हो जाएगी
रहने जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भा. ११-अ. ३-श्रु. ४०३ (१)

PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सार्वजनिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than the Ministry of Defence)

विधि और न्याय मंत्रालय

(विचित्र कार्य विभाग)

(म्यायिक् खण्ड)

सूच.११

नई दिल्ली, 30 सितम्बर, 1992

का. प्रा. 1-नोटरीय नियम, 1956 के नियम 6 के अनुसार
प्रमाण प्रधिकारी द्वारा यह सूचना दी जाती है कि श्री जगदीश चन्द्र
श्री एडवोकेट भक्त प्रधिकारी को उक्त नियम के नियम 4 के प्रधीन एक
आदेश इस भाग के लिए दिया है कि उसे रावसिंह नगर, जिला गंग
र (राजस्थान) में व्यवसाय करने के लिए नोटरी के काम में नियुक्ति
दिया जाय। प्रकरण का प्रमाण इस सूचना के प्रकाशन के चौदह दिन के
नंतर निश्चित रूप से चेंबर पास भेजा जाए।

[संख्या 5(221)/१२-न्यायिक]

पी. सी. कण्गन, यत्तः अधिकारः

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

(Department of Legal Affairs)

(Judicial Section)

NOTICE

New Delhi, the 30th September, 1992

O. 1.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 application has been made to the said Authority, under

Rule 4 of the said Rules, by Shri Jagdish Chandra Joshi Advocate for appointment as a Notary to practise in Raisingh Naga., Dist. Ganganagar (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5 (221) 92-Judl.]

P. C. KANAN, Competent Authority.

सूचना

नई दिल्ली, 30 सितम्बर, 1992

का.शा. 2.- नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सूक्ष्म अधिकारी द्वारा यह सूचना दी जाती है कि श्री अश्वय कुमार धनयन्त राय देसाई एडवोकेट ने उक्त अधिकारी को उक्त नियम के विधम 4 के अन्वीन एक आवेदन दान बान के निः दिया है कि उसे सूट चिट्ठी (गुटन) में व्यवसाय करने के निने नोटरी के हा में निरुद्धि पर तिनी में प्रकार का आशेष इस सूचना के प्रदाशन के तौद दिन के अंतर निश्चित रूप से मेरे पास भेजा जाए ।

[संख्या 5 (220)/92-व्या.वि.स.]

पी. सी. कृष्णन, मुख्य प्रवक्ता

NOTICE

New Delhi, the 30th September, 1992

S.O. 2.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under

Rule 4 of the said Rules, by Sh. Ajay Kumar Balwantra Desai Advocate for appointment as a Notary to practise to Surat City, (Gujarat).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. 5 (220)/92-Judl.]

P. C. KANAN, Competent Authority

सूचना

नई दिल्ली, 1 अक्टूबर, 1992

का. प्रा. 3.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री बी. पानिग्राही एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बम्बई (महाराष्ट्र) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(222)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

NOTICE

New Delhi, the 1st October, 1992

S.O. 3.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. B. Panigrahi Advocate for appointment as a Notary to practise in Bombay (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5 (222)/92-Judl.]

P. C. KANAN, Competent Authority

सूचना

नई दिल्ली, 1 अक्टूबर, 1992

का. प्रा. 4.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री धानन्दराव संकरराव मुथाने एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे कोल्हापुर (महाराष्ट्र) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(223)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

NOTICE

New Delhi, the 1st October, 1992

S.O. 4.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Anand Rao Shankar Rao Muthane, Advocate for appointment as a Notary to practise in Kolhapur Distt. (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(223)/92-Judl.]

P. C. KANAN, Competent Authority

सूचना

नई दिल्ली, 5 अक्टूबर, 1992

का. प्रा. 5.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री विनोद कुमार गुप्ता एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जयपुर (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(224)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

NOTICE

New Delhi, the 5th October, 1992

S.O. 5.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Vinod Kumar Gupta, Advocate for appointment as a Notary to practise in Jaipur (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(224)/92-Judl.]

P. C. KANAN, Competent Authority

सूचना

नई दिल्ली, 1 अक्टूबर, 1992

का. प्रा. 6.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री प्रेम शंकर सिंह एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बयाना सब डिविजन जिला भरतपुर राजस्थान में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(225)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

NOTICE

New Delhi, the 5th October, 1992

S.O. 6.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Prem Shanker Singh, Advocate for appointment as a Notary to practise in Brij Distt. Bharatpur (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(225)/92-Judl.]

P. C. KANAN, Competent Authority

गृह मंत्रालय

नई दिल्ली, 27 नवम्बर,

Internal Security)

on Division)

New Delhi

7th November, 1992

का. प्र. 7.—सरकारी स्थान पर अधिकृत कब्जाधिकारियों को (बेदखल) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रिय सरकार कमांडेंट, उपमहानिरीक्षक का का पालिका, केन्द्रिय रिजर्व पुलिस बल, कलकत्ता, को भारत सरकार का राज-पत्रित अधिकारी होने के नाते उक्त अधिनियम के प्रयोजनों के लिए सम्बन्ध अधिकारों के रूप में नियुक्त करता है और यह निवेदन करता है कि उक्त अधिकारी उक्त अधिनियम के द्वारा सल्ट लेक, सेक्टर III, V, और 47 स्ट्रैंड रोड, कलकत्ता में केन्द्रिय रिजर्व पुलिस बल के नियंत्रण प्रयोजन करने के तहत सरकारी स्थानों के बारे में सम्बन्ध अधिकारों को प्रदत्त शक्तियों का प्रयोग करेगा और उसके लिए दिए गए कर्तव्यों का पालन करेगा।

[संख्या ए-2/14/92 प्रशा-3 सा. शार. वा. एक.]

एम एच ए/वा एक. 4]

ए. भट्टाचार्य, डेस्क अधिकारी,

MINISTRY OF HOME AFFAIRS

New Delhi, the 27th November, 1992

S. O. 7.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the Commandant, office of the Deputy Inspector General of Police, Central Reserve Police Force, Calcutta being a Gazetted Officer of the Government of India to be the Estate Officer for the purpose of the said Act, and directs that the said officer shall exercise the powers conferred and perform the duties imposed on estate officer by or under the said Act in respect of the Public premises under the control or occupation of the Central Reserve Police Force at Salt Lake, Sector III, V and 47, Strand Road, Calcutta.

[No. A. II-14/92-Adm. 3/CRPF/MHA/PP. IV]

A. BHATTACHARYA, Desk Officer

(प्रशासनिक भुरखा विभाग)

(पुनर्वास प्रभाग)

नई दिल्ली, 6 नवम्बर 1992

का. प्र. 8.—विविध व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एवं द्वारा गहरी विकास योजना के अंतर्गत भूमि एवं विकास कार्यालय में बन्दोबस्त अधिकारी का हुकम बन्द को बन्दोबस्त अधिकारों के रूप में स्वयं के अधिकारों के अतिरिक्त दिल्ली तथा नई दिल्ली में शक्तिपूति पून के एक साथ के रूप में सरकार द्वारा नियमित सम्पत्तियों के पट्टे प्रयोजन के अन्तर्गत विवेक जारी करते पट्टा विवेकों के परिवर्तन अतिरिक्त शक्तियों के अंतर्गत तथा दिल्ली तथा नई दिल्ली में इन प्रकार सम्पत्तियों में जो सुधारत्मक शक्तियों के संबंध में उक्त अधिनियम द्वारा प्रयोजन उसके अंतर्गत प्रत्यक्ष अधिकारों के कार्यों का निष्पादन के उद्देश्य में प्रत्यक्ष अधिकारों नियुक्ति करती है।

2. यह दिनांक 11-5-1989 का अधिसूचना संख्या 1(1) विशेष प्र/99--एस एस II के अधिनियम में जारी की जाती है।

[संख्या 1(4) 92--बन्दोबस्त]

पी. टी. श्रीवास्तव, सचिव

S. O. 8.—In exercise of the powers conferred by subsection (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Shri Hukam Chand, Settlement Officer in the Land and Development Office under Ministry of Urban Development as Managing Officer for the purpose of performing, in addition to his own duties as Settlement Officer, the functions of a Managing Officer by or under the aforesaid Act in respect of issue of lease or conveyance deeds of Government Built Properties, in Delhi and New Delhi and conversion of lease deeds, allotment of additional strips of land and correctional Areas adjoining such properties in Delhi and New Delhi forming a part of the Compensation Pool.

2 This is in supersession of Notification No. 1(2)/Spl. Cell/89-SS. II dt. 11-5-1989.

[No. 1(4)/92-Settlement]

P. T. CHACKOCHAN, Under Secy.

कार्मिक लोक शिफायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

प्रादेश

नई दिल्ली, 21 दिसम्बर, 1992

का. प्र. 9.—केन्द्रिय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पुलिस स्टेशन गहरीबन, श्रीनगर, जम्मू-कश्मीर के अंतर्गत रजिस्टर किए गए मुकदमा संख्या 204/92 दि. 5-12-92 जो श्री एच एम वाई निवासी जवाहर नगर, श्रीनगर, को हत्या से संबंधित है, के बाबत रणबीर दंड मंजूना की धारा 302, भारतीय दण्ड अधिनियम, 1959 (1959 का 54) का धारा 3/25 तथा अंतर्कवादी एवं विषय-कारण अनिश्चितता (निवारण) अधिनियम, 1987 (1987 का 28) का धारा 3 के अंतर्गत बंदनीय अपराधों और उक्त अपराधों और उन्ही तथ्यों से उत्पन्न होने वाले जैसे हा संयोजन के प्रत्यक्ष में किए गए किसी अन्य अपराधों के संबंध में या उनसे संज्ञक प्रपत्तियों, दुष्प्रमाणों और पक्षों के प्रत्यक्ष के लिए जम्मू-कश्मीर शासन के गृह विभाग के 1992 के आपन सं. गृह 39 (आई. एस. ए.) दि. 9-12-1992 के तहत जम्मू कश्मीर सरकार की सहमति से दिल्ली विशेष पुलिस स्थापन के सदस्यों को शक्तियों और अधिकारों का विस्तार सम्पूर्ण जम्मू-कश्मीर राज्य पर करती है।

[संख्या 223/67/92-ए का डी-II]

ए. सं. शर्मा, सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

ORDER

New Delhi, the 21st December, 1992

S.O. 9.—In exercise of the powers conferred by subsection (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the Government of

Jammu and Kashmir issued vide Government of J&K, Home Department Order No. Home/39(ISA), of 1992 dated 9-12-1992 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Jammu and Kashmir for the investigation of the offences punishable under sections 3 of Terrorist and Disruptive Activities (Prevention) Act, 1987 (Act of 1987), section 302 RPC and 3/25 of the Indian Arms Act, 1959 (Act 54 of 1959) and any other offences, attempts, abetments and conspiracies in relation to or in connection with the said offence(s) committed in the course of same transaction of arising out of the same fact or facts in case FIR No. 204/92 dated 5-12-1992 registered at Police Station Shaheedgunj, Srinagar in (J&K) relating to the murder of Shri H. N. Wanchoo respect of Jawahar Nagar, Srinagar.

[No. 228/67/92-AVD. II]

A. C. SHARMA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 30 नवम्बर, 1992

(भाष्यकर)

का.प्र.नि. 10 -- प्रायस्कर अधिनियम 1961 (1961 का 43) की धारा 80जी की उप-धारा (2) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार एतद्वारा "अनन्तपुरम श्रीकृष्ण स्वामी टेंपल" को समूचे केरल राज्य में एक क्यारि प्राप्त सार्वजनिक पूजा स्थल के रूप में उक्त धारा के प्रयोजनार्थ अधिसूचित करती है।

[अधिसूचना सं. 9144 फा. सं. 176/74/92 प्रत्यक्ष-कर (नि-1)]

केशव देव, उप सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 30th November, 1992

(INCOME-TAX)

S.O. 10. In exercise of the powers conferred by clause (b) of sub-section (2) of Section 80-G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Ananthapuram Sree Krishna Swamy Temple" to be a place of public worship of renown throughout the State of Kerala for the purpose of the said section.

[Notification No. 9144 (F. No. 176/74/92-ITA-1)]

KESHAV DEV, Dy. Secy.

(भाष्यिक कार्य विभाग)

(वैज्ञानिक प्रभाग)

नई दिल्ली, 5 दिसम्बर, 1992

का.प्र.नि. 11.--आर्थिक वित्तिय बैंक अधिनियम, 1976 (1976 का 21) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार एतद्वारा सह-यंत्रि प्राण्य बैंक लिमिटेड के अध्यक्ष के रूप में श्री के. एम. प्रसाद को पुनर्विधि की. 1-5-88 से प्रारम्भ होकर और 28-09-93 की समाप्ति तक के लिए नियुक्ति करती है, जिसका

आवक शक्ति को पुनर्विधि की धारा 11 की उप-धारा (1) के अन्तर्गत 29-4-1993 को समाप्त हो गया था।

[सं. 1/4/92-वी.ओ.-1]

एम.एन. नितारामन, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 5th December, 1992

S.O. 11.--In exercise of the powers conferred by sub-section (2) of section 11 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby regularises the period commencing from 1-5-88 and ending with 28-09-88 for the re-appointment of Shri K. M. Prabhu as the Chairman of Sahyadri Gramin Bank, Shimoga whose earlier tenure of reappointment for seven months under sub-section (1) of Section (11) had expired on 30-04-1988.

[No. F. 2(8)/88-RRB]

M. L. KUKREJA, Under Secy.

नई दिल्ली, 8 दिसम्बर, 1992

का.प्र.नि. 12.--बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10 'अ' की उप-धारा (1) तथा (2) के उपबन्ध प्रभाव को-ऑपरेटिव बैंक लि. पर 9 नवम्बर, 1992 से 8 जनवरी, 1993 तक तीन महीने की अवधि के अन्तर्गत प्रदत्त बैंक के नियमित पूर्ण, कालिक अध्यक्ष को नियुक्ति होने तक, इनमें से जो भी पहले हो, समाप्त होगी।

[सं. 15/10/91-वी.ओ.ए. (1)]

के.के. मंगल, अवर सचिव

New Delhi, the 8th December, 1992

S.O. 12.--In exercise of the powers conferred by section 53 the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-sections (1) and (2) of section 10B of the said Act shall not apply to the Punjab Cooperative Bank Ltd. for a period of two months from 9th November, 1992 to 8th January, 1993 or till the appointment of a regular wholetime Chairman for that bank, whichever is earlier.

[No. 15/10/91-B.O.]

K. K. MANGAL, Under Secy.

नई दिल्ली, 10 दिसम्बर, 1992

का.प्र.नि. 13.--भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उपधारा (1) के खण्ड (ड) के उपखण्ड (घ) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा, श्री पी.एस.एम. मणिक, प्रार सचिव (ई.आर.) विदेश मंत्रालय, नई दिल्ली को कुं. प्रकृत्यवति घोष के स्थान पर भारतीय निर्यात-आयात बैंक के निदेशक मंडल में निदेशक के रूप में नामित करती है।

[सं. 7/4/92-वी.ओ.-1]

एम.एन. नितारामन, अवर सचिव

New Delhi, the 10th December, 1992

S.O. 13. In pursuance of sub-clause (i) of clause (c) of sub-section (1) of Section 6 of Export-Import Bank of India Act, 1981 (28 of 1981), the Central Government here-

आदेश

2. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public, Nashik. I am accordingly satisfied that the original Exchange Control Copy of import licence No. P/CG/2128148 dated 19-6-91 has been misplaced by the firm. In exercise of the powers conferred under Sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended, the said original Exchange Control Copy No. PICG/2128148 dated 19-6-91 issued to M/s. Nicholas Breeders (India) Ltd., is hereby cancelled.

3. 'A' duplicate Exchange Control Copy of the said licence is being issued to the party separately.

[F. No. CG. I/1254/10-90-91/220]

RITA MATHUR, Dy. Chief Controller of Imports & Exports
for Chief Controller of Imports & Exports

कोयला मंत्रालय

नूतन पत्र

नई दिल्ली, 25 नवम्बर, 1992

का. मा. 17.—भारत सरकार के राजपत्र दिनांक 19 जुलाई, 1992 के भाग II, खंड 3 उपखंड (ii) में पृष्ठ क्रमांक 3044 से 3047 पर प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना का. मा. सं. 1898, तारीख 2 जुलाई, 1992 में :—
पृष्ठ 3044 पर :

अनुसूची में

(1) "जिला छिन्ना (मध्य प्रदेश) के स्थान पर "जिला छिन्ना (मध्य प्रदेश)" पढ़िए।

(2) अनुसूची में—तारिका के ऊपर सभी अधिकार" पढ़िए।
पृष्ठ 3045 पर.

(3) उधेन ग्राम में अर्जित किए जाने वाले प्लॉट संख्यांक के स्थान पर "उधेन ग्राम में अर्जित किए गए प्लॉट संख्यांक" पढ़िए। और प्लॉट संख्यांक "60 (भाग), 61, 63, भाग, के स्थान पर "6" भाग, 61, 62, 63 (भाग)" पढ़िए और प्लॉट संख्यांक "232 (भाग), 234 (भाग)" के स्थान पर "232 (भाग), 233 (भाग), 234 (भाग)" पढ़िए।

(4) "जमुनिया ग्राम में अर्जित किए जाने वाले प्लॉट संख्यांक" के स्थान पर "जमुनिया ग्राम में अर्जित किए गए प्लॉट संख्यांक" पढ़िए।

[सं. 43015/15/89—एच. एस. डब्ल्यू.]

बी. बी. राव, प्रवर सचिव

MINISTRY OF COAL CORRIGENDUM

New Delhi, the 25th November, 1992

S.O. 17.—In the notification of the Government of India in the Ministry of Coal No. S.O. 1898, dated the 2nd July, 1992, published in the Gazette of India, Part-II, Section 3, Sub-section (ii) dated the 18th July, 1992, at pages 3044 to 3047 at page 3046, in the boundary description in line 'B-C-C' for plot numbers "60, 50, 26" read plot numbers "60, 59, 26".

[No. 43015/15/89-LSW]

B. B. RAO, Under Secy.

आवेष्टा

नई दिल्ली, 7 दिसम्बर, 1992

का. मा. 18.—कोयला धारक क्षेत्र (मार्जन और विकास) अधिनियम, 1957 (1957 का 20) की (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) द्वारा 9 की उपधारा (1) के अधीन निर्यात की गई भारत सरकार के ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का. मा. 1768, तारीख 4 जून, 1991 के भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 22 जून, 1991 में प्रकाशित होने पर, उक्त अधिसूचना के संलग्न अनुसूची में वर्णित भूमि में या उस पर अधिकारों के ज्ञान खदान, खोज करने, निष्कासन के लिए उत्तरी खूबाई करने और खदान करने, उन्हें

प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकार उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन सभी विस्तारों से मुक्त होकर, आत्मतत्काल से केन्द्रीय सरकार में निहित हो गए थे ;

और, केन्द्रीय सरकार का यह मानाया हो गया है कि ताउप ईस्टन कोलफील्ड्स लिमिटेड, बिलासपुर (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिसूचित करना उचित नजरे, अनुमान करने के लिए स्वाभाविक है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निवेदन देती है कि इस प्रकार निहित उक्त भूमि में या उस पर के अधिकार, तारीख 22 जून, 1991 में केन्द्रीय सरकार में इन प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहने हुए, उक्त सरकारी कंपनियों में निहित हो जाते, अर्थात् :—

(1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों अधीन अधिग्रहित अधिकार, व्याज, मुकासमी आर वैसी ही शर्तों की बाबत किए गए सभी मामलों को केन्द्रीय सरकार को प्रतिवृत्ति करेगी।

(2) सरकारी कंपनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संश्लेष रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जायगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपयुक्त, यथोचित, सरकारी कंपनी बहुत करेगी और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधि कार्य-बाहियों, जैसे प्रपील, प्राप्ति की बाबत उपगत सभी व्यय भी, सरकारी कंपनी बहुत करेगी।

(3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पक्षधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में केन्द्रीय सरकार या उसके पक्षधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों संबंध में आवश्यक हो, क्षति-पूर्ति करेगी।

(4) सरकारी कंपनी की, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना भूमि में या उस पर निहित उक्त अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और :—

(5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, अब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिसूचित की जाएं, पालन करेगी।

[सं. 43015/16/88—एच. एस. डब्ल्यू.]

बी. बी. राव, प्रवर सचिव

ORDER

New Delhi, the 7th December, 1992

S.O. 18.—Whereas on the publication of the notification of the Government of India in the Ministry of Energy (Department of Coal) number S.O. 1768, dated the 4th June, 1991 in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 22nd June, 1991 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition & Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in or over the lands described in the Schedule appended to the said notification vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the South Eastern Coalfields Limited, Bilaspur (hereinafter re-

ferred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the aforesaid rights in or over the land is so vested shall, with effect from the 22nd June, 1991, instead of continuing to so vest in the Central Government, vest in the Government Company, subject to the following terms and conditions, namely:—

- (1) The Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) A tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under conditions (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and, similarly, all expendi-

ture incurred in respect of all legal proceedings like appeals, etc., for or in connection with the rights in or over the said lands, so vesting shall also be borne by the Government Company ;

- (3) The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings, by or against the Central Government or its officials regarding the rights in or over the said lands so vesting;
- (4) The Government Company shall have no power to transfer the said rights in or over the lands so vested to any other persons without the previous approval of the Central Government;
- (5) The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land, as and when necessary.

[No. 43015/16/88-LSW]

B. B. RAO, Under Secy.

MINISTRY OF COAL

CORRIGENDUM

New Delhi, the 21st December, 1992

S.O. 19. In the notification of the Government of India in the Ministry of Coal Number S.O. 924(E) dated the 27th December, 1991, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) dated the 27th December, 1991, the following corrections are made --

Serial number	Page number	Reference	For	Read
1	2	3	4	5
1.	9	In notification, line 1	force-	force
2.	9	Table-I, Serial number 1, Column 2, line 3 and 4	the Union Territory of Arunachal Pradesh.	Arunachal Pradesh.
3.	10	Table-I, Serial number 2, line 2 and 3	the Union Territory of Arunachal Pradesh.	Arunachal Pradesh.
4.	10	Table-I, Serial number 4, Column 2, line 1	Weekly	Weakly
5.	11	Notes, item. (i) line 1 (ii) line 3	ben ben	been been
6.	11	Notes, item 2. (i) line 1 (ii) line 3	Blendable coals semicoking'	'Blendable coals' 'semi coking'
7.	11	Notes, item 4, line 1, after the words "formula"	:	:
8.	11	Notes, item 4, line 7 after the word "reduced"	of	by
9.	11	Notes, item 4, line 10	causes	clauset
10.	11	Notes, item 5, line 2	equilibrative	equilibrating
11.	11	Notes, item 5, line 3	40°C	40C
12.	11	Notes, Point 6, in table: (i) in column heading 1 (ii) in column heading 2	Group olatile	Group volatile
13.	12	Table II, Serial number 1, column 1, line 2	Union Territory of Arunachal Pradesh	Arunachal Pradesh
14.	12	Table II, Serial number 2, column 1, line 2	Meghalaya	Meghalaya,

1	2	3	4	5
15.	12	Table II, serial number 2, column 1, line 2 and 3	Union Territory of Arunachal Pradesh	Arunachal Pradesh
16.	13	Table II, serial number 4, column 1, line 1 and 2	Union Territory of Arunachal Pradesh	Arunachal Pradesh.
17.	13	Table IV, headline	WEEKLY	WEEKLY
18.	14	Notes, item 2, line 1	comprising	comprising of
19.	14	Notes, item 5, line 2	segregation/into	segregation into
20.	14	Notes, item 6 (i), line 3, between 'at the' and 'ratio'	average rate of prices of steam and slack coal in the	
21.	14	Notes, item 7, line 1.	weekly	weakly
22.	14	Notes, item 8, line 2	Rs	Re
23.	15	Notes, item 9 (ii), line 1 and 2	Union Territory of Arunachal Pradesh	Arunachal Pradesh
24.	15	Notes, item 9 (ii), line 2	Per tonne,	per tonne
25.	15	Notes, item 11, line 2	bodies;	bodies,
26.	15	Notes, item 12: (i) line 1 (ii) line 3 (iii) line 4 (iv) line 7	hard coke soft coke ad coal 1.35	Hard Coke Soft Coke and coal by 1.35
27.	15	Notes, item 15, line 1	soft coke	Soft Coke
28.	15	Notes, item 16; (i) line 1 (ii) line 3	Beehive percent	Beehive percent,
29.	16	Notes, item 19; (i) line 1 (ii) line 3	price percent	prices percent.
30.	16	Notes, item 20, line 3	Annexur	Annexure
31.	16	ANNEXURE, Area-KENDA, under heading COLLIERY, line 8	Chora ODP	Chora OCP
32.	16	ANNEXURE, Area-KAJORA, under heading COLLIERY line 15	Jambac OCP	Jambad OCP
33.	17	ANNEXURE, Area-BAIKUNTHPUR, under heading COLLIERY : (i) line 3 (ii) line 4	Bhatgaon OCP Bisrampur UG	Bhatgaon Bisrampur OCP Bisrampur UG
34.	1	ANNEXURE, Area-CHIRIMIRI, Under heading COLLIERY: (i) line 11 (ii) line 12	CHIRIMIRI OC+Ug 1&3 CHIRIMIRI OC+Ug 2&4	CHIRIMIRI OC+UG1&3 CHIRIMIRI OC+UG 2&4

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 21 दिसम्बर, 1992

का. आ. 20.— केन्द्रीय सरकार, बहु राज्य सहकारी समिति अधिनियम, 1984 (1984 का 51) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत की अधिसूचना संख्या एल. 11012/1/85-एल. एड एम. दिनांक 4 जून, 1991 का अधिक्रमण करते हुए केन्द्रीय सरकार एतद्वारा कृषि मंत्रालय (कृषि और सहकारिता विभाग) में संयुक्त सचिव श्री भगत सिंह की आगामी आदेशों तक सहकारी समितियों के केन्द्रीय रजिस्ट्रार के पद पर नियुक्त करती है।

[सं. एल. - 11012/1/85 - एल. एड एम.]

कंवर राजेन्द्र सिंह, उ. सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 21st December, 1992

S.O. 20.—In exercise of the powers conferred by sub-section (1) of Section 4 of the Multi-State Co-operative Societies Act, 1984 (51 of 1984) and in supersession of the Notification of the Government of India L-11012/1/85-L&M dated the 4th June, 1991 the Central Government hereby appoints Shri Bhagat Singh, Joint Secretary in the Ministry of Agriculture (Department of Agriculture and Cooperation) as the Central Registrar of Cooperative Societies, until further orders.

[No. L-11012/1/85-L&M]

KANWAR RAJINDER SINGH, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 2 दिसम्बर, 1992

का. आ. 21.— केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 14 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद में परामर्श करने के लक्ष्य से यह निदेश देती है कि आयुर्विज्ञान अर्हता एम. डी. (मास्ट्रीक विश्वविद्यालय, नीदरलैण्ड) इन अधिनियम के प्रयोजन के लिए मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी।

[सं. वी-11015/11/91 - एम. डी. (यू. जी.)]

आर. विजय कुमार, डेस्क अधिकारी

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 2nd December, 1992

S.O. 21.—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government after consultation with the Medical Council of India, hereby directs that the Medical qualification "M.D." (University of Maastricht, Netherlands) shall be as a recognised medical qualification for the purposes of this Act.

[No. V-11015/11/91-ME(UG)]

R. VIJAYAKUMARI, Desk Officer

आदेश

नई दिल्ली, 3 दिसम्बर, 1992

का. आ. 22.— भारत सरकार ने भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 14 की उपधारा (1) 3087 G/92-2

द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, स्वास्थ्य और परिवार कल्याण मंत्रालय की अधिसूचना सं. वी- 11025 (11/91)-एम. डी. (यू. जी.) तारीख 2-12-92 द्वारा (मास्ट्रीक विश्वविद्यालय) नीदरलैण्ड द्वारा प्रदत्त "एम. डी." आयुर्विज्ञान अर्हता की उक्त अधिनियम के प्रयोजन के लिए मान्यता दे दी है।

और डॉ. मेरी जान हुबर्टीना राजीव कारनिप्स, जिनके पास उक्त अर्हता है अनुसंधान/या पूर्व प्रयोजन के लिए कुछ समय के लिए होली क्रॉस अस्पताल, कोटायम, केरल से संलग्न है; अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 14 की उपधारा (i) के परन्तुक के खंड (ग) के अनुसरण में -

(1) 31 अगस्त, 1994 तक की अवधि की या

(2) उस अवधि की जिसके दौरान डाक्टर मेरी जान हुबर्टीना राजीव कारनिप्स उक्त होली क्रॉस अस्पताल, कोटायम, केरल से संलग्न रहती है, जो भी लघुतर हो, उक्त अवधि के रूप में, विनिश्चित करती है, जिस तक उपरोक्त डाक्टर द्वारा तक उपरोक्त डाक्टर द्वारा चिकित्सा व्यवसाय सीमित होगी।

[सं. वी - 11025/11/91 - एम. डी. (यू. जी.)]

आर. विजय कुमार, डेस्क अधिकारी

ORDER

New Delhi, the 3rd December, 1992

S.O. 22.—Whereas the Government of India in the Ministry of Health and Family Welfare, by Notification No. V. 11015/11/91-ME(UG) dated 2-12-92 made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised medical qualification "M.D." granted by the (University of Maastricht), Netherlands for the purpose of the said Act.

And whereas Dr. Marie Jan Hubertina Rajiv Cornips who possesses the said qualification is for the time-being attached to Holy Cross Hospital, Kottayam, Kerala for the purpose of research or charitable work;

Now, therefore, in pursuance of clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies :—

(i) a period upto 31st August, 1994, or

(ii) the period during which Dr. Marie Jan Hubertina Rajiv Cornips is attached to the said Holy Cross Hospital, Kottayam, Kerala, whichever is shorter, as the period for which the medical practice by the aforesaid doctor shall be limited

[No. V-11025/11/91-ME(UG)]

R. VIJAYAKUMARI, Desk Officer

नई दिल्ली, 15 दिसम्बर, 1992

का. आ. 23.— केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, तारीख 16 जनवरी 1960 में प्रकाशित भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना सं. का. आ. 138, तारीख 9 जनवरी, 1960 का निम्नलिखित और संशोधन करती है, अर्थात् -

उक्त अधिसूचना में "धारा 3 की उपधारा (i) के खंड (क) के अधीन निर्वाचित शीर्षक के नीचे क्रम संख्यांक 12 और उसके संबंधित

प्रतिष्ठियों के स्थान पर निम्नलिखित क्रम संख्यांक और प्रतिष्ठि
जाएगी, अर्थात्—

"13 डा. ए. के. एस. सिन्हा,
अहिपुर हाउस, कदमकुंआ,
पटना-3

उपरोक्त सवस्य 17-12-92 से पदभार ग्रहण करेंगे।

[सं. धो - 11013/6/92 - एम. ई. (पू. जी.)]

भार. विजयकुमारी, डेस्क अधिकारी

New Delhi, the 15th December, 1992

S.O. 23.—In exercise of the powers conferred by sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby makes the following further amendments in the notification of the Government of India in the erstwhile Ministry of Health, published vide S.O. 138, dated the 9th January, 1960 in the Gazette of India dated the 16th January, 1960, namely:—

In the said notification, under the heading "Nominated under clause (a) of sub-section (1) of Section 3" against serial number 13 and the entries relating thereto the following serial number and entries shall be substituted, namely:—

"13. Dr. A.K.N. Sinha,
Ahiapur House,
Kadamkuan,
Patna-3

The aforesaid number shall hold office w.e.f. 17-12-92".

[No. V. 11013/6/92-ME(UG)]

R. VIJAYAKUMARI, Desk Officer

ग्रामीण विकास मंत्रालय

आदेश

नई दिल्ली, 19 नवम्बर, 1992

भा. भा. 24.—मांस खाद्य उत्पाद आदेश 1973 के चूड 3 के उप चूड (i) के अनुसरण में, केन्द्रीय सरकार एतद्वारा सरकारों राजपस में इस आदेश के प्रकाशन की तागोख से लेकर व. वर्षों की अवधि के लिए मांस खाद्य उत्पाद सलाहकार समिति का पुनर्गठन करती है जिसमें निम्नलिखित व्यक्ति शामिल होंगे, अर्थात्—

अध्यक्ष

भारत सरकार के कृषि विपणन सलाहकार

सदस्य

1. पशुपालन आयुक्त, भारत सरकार अथवा उनके द्वारा नामित व्यक्ति।

2. स्वास्थ्य सेवाओं के महानिदेशक, भारत सरकार या उनके द्वारा नामित व्यक्ति।

3. महानिदेशक प्रौद्योगिकी विकास, भारत सरकार या उनके द्वारा नामित व्यक्ति।

4. कार्यकारी निदेशक, खाद्य एवं पोषाहार बोर्ड, खाद्य मंत्रालय भारत सरकार या उनके द्वारा नामित व्यक्ति।

5. निदेशक, केन्द्रीय खाद्य प्रौद्योगिकी अनुसंधान संस्थान, मैसूर या उनके द्वारा नामित व्यक्ति।

अथ (अ) के अन्तर्गत केन्द्रीय सरकार द्वारा राज्य सरकारों के पशु पालन अथवा पशु चिकित्सा सेवा विभाग के नामित दो अधिकारी

6. निदेशक, पशु पालन, कर्नाटक

7. उप निदेशक, पशु पालन, दिल्ली

अथ (अ) के अन्तर्गत केन्द्रीय सरकार द्वारा नामित विभिन्न राज्यों में दो दो व्यक्ति।

8. मैमर्स जी. पी. कैनिंग, नादिया, पश्चिम बंगाल

9. मैमर्स फ्रिगेरिको अलाना लिमिटेड, औरंगाबाद।

अथ (अ) के अन्तर्गत लाइसेन्सिंग अधिकारी द्वारा नामित

10. उप कृषि विपणन सलाहकार (मांस खाद्य उत्पाद आदेश) विपणन एवं निरीक्षण निदेशालय, फरीदाबाद।

2. उप कृषि विपणन सलाहकार, (मांस खाद्य उत्पाद आदेश) विपणन एवं निरीक्षण निदेशालय, फरीदाबाद समिति के सचिव के रूप में कार्य करेंगे।

[संख्या 47012/1/92-वि. 1]

पुरुषोत्तम लाल, उप सचिव (विपणन)

MINISTRY OF RURAL DEVELOPMENT

ORDER

New Delhi, the 19th November, 1992

S.O. 24.—In pursuance of sub-clause (1) of clause 3 of the Meat Food Products Order, 1973, the Central Government hereby reconstitute the Meat Food Products Advisory Committee consisting of the following persons, for a period of 2 years with effect from the date of publication of this Order in the Official Gazette, namely:—

Chairman

Agricultural Marketing Adviser to the Government of India

Members

1. Animal Husbandry Commissioner, Government of India or his nominee.

2. Director General of Health Services Government of India or his nominee.

3. Director General of Technical Development, Government of India or his nominee.

4. Executive Director, Food and Nutrition Board, Ministry of Food, Government of India or his nominee.

5. Director, Central Food Technological Research Institute Mysore, or his nominee.

Two officers of the Department of Animal Husbandry or Veterinary Services, of State Government nominated by the Central Government Under item (f) :

6. The Director of Animal Husbandry, Karnataka.

7. Dy. Director of Animal Husbandry, Delhi.

Two persons from among the manufacturers nominated by the Central Government under item (g) :

8. M/s. G. P. Canning, Nadia, West Bengal.

9. M/s. Frigorifico Allana Ltd., Aurangabad.

An officer of the Directorate of Marketing and Inspection Nominated by the licensing authority under item (h) :

10. Deputy Agricultural Marketing Adviser (Meat, Food Products Order), Directorate of Marketing and Inspection, Faridabad.

2. The Deputy Agricultural Marketing Adviser, (Meat Food Products Order), Directorate of Marketing and Inspection, Faridabad shall act as the Secretary of the Committee.

[No. 47012/1/92-M-1]

PURSHOTAM LAL, Dy. Secy. (Marketing)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 8 दिसम्बर, 1992

का. भा. 25.—खसचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ पठित खसचित्र अधिनियम, 1952 (1952 का 37) को धारा 5 का उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस मंत्रालय के दिनांक 30-9-91 को अधिसूचना संख्या 814/4/90 एफ. (सं.) (2) दिनांक 28-2-92 को संख्या 809/7/92 एफ. सी. तथा दिनांक 18-5-92 को संख्या 809/7/92 एफ. (सं.) के अनुक्रम में केन्द्रीय सरकार श्री एम. वी. नारायण राव, भावास संख्या 8-2-618/1/ए. एंड बी., रोड संख्या 11 बंजारा हिल्स, हैदराबाद-500034 को केन्द्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद पैनल में सदस्य के रूप में तत्काल प्रभाव से और अपने आदेश होने तक नियुक्त करते हैं।

[फाइल सं. 809/7/92 - एफ. (सं.)]

एम. एस. सेठी, डेस्क अधिकारी

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 8th October, 1992

S.O. 25.—In exercise of the powers conferred by sub-section (1) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in continuation of this Ministry's Notifications (i) No. 814/4/90-F(C) dated 30-9-91, (ii) No. 809/7/92-F(C) dated 28-2-92 and (iii) No. 809/7/92-F(C) dated 18-5-92, the Central Government is pleased to appoint **Shri M. V. Narayana Rao, H. No. 8-2-618/1/A&B, Road 11, Banjara Hills, Hyderabad-500034** as Member of the Hyderabad Panel of the Central Board of Film Certification with immediate effect and until further orders.

[F. No. 809/7/92-F(C)]

M. S. SETHI, Desk Officer

नई दिल्ली, 26 दिसम्बर, 1992

का. भा. 26.—खसचित्र अधिनियम 1952 (1952 का 37) के खंड 5 के उपखंड (1) को खसचित्र (प्रमाणिकरण) नियम, 1983 के नियमों 7 और 8 के साथ पढ़ा जाए और उनके द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार यह निर्देश देती है कि केन्द्रीय फिल्म प्रमाणिकरण बोर्ड के कलकत्ता सलाहकार पैनल की सदस्यता समाप्त होना चाहिए, की सदस्यता तत्काल प्रभाव से समाप्त होती है।

[फा. सं. 809/3/92-एफ. (सं.)]

एम. एस. सेठी, डेस्क अधिकारी

New Delhi, the 26th October, 1992

S.O. 26.—In exercise of the powers conferred by sub-section (1) of section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to direct that **Smt. Rita Dutta**, a Member of the Calcutta Advisory Panel of the Central Board of Film Certification shall cease to be such a member with immediate effect.

[F. No. 809/3/92-F(C)]

M. S. SETHI, Desk Officer

भूमि मंत्रालय

नई दिल्ली, 4 दिसम्बर, 1992

का. भा. 27.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिप्टी सलाहकार नारायण टेलेफोन एक्सचेंज अहमदाबाद के प्रमुख निरीक्षकों और उनके कर्मचारियों के बीच, अनुसंधान में भाग लेने औद्योगिक विवाद में

औद्योगिक अधिकरण अहमदाबाद के पंचवट की प्रकाशित करती है, जो केन्द्रीय सरकार को 4-12-92 को प्राप्त हुआ था।

[एल - 40012/30/91 - आई. धार. (श्री. ए.) (पं.टी.)]

श्री. एम. डेविड, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 4th December, 1992

S.O. 27.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Divl. Eng. (EXTL) Naranpura Telephone Exchange and their workmen, which was received by the Central Government on 4-12-1992.

[No. L-40012/30/91-IR(DU)(Pt.)]

B. M. DAVID, Desk Officer

ANNEXURE**BEFORE SHRI H. R. KAMODIA, INDUSTRIAL TRIBUNAL, AHMEDABAD**

Reference (IIC) No. 60 of 1991

ADJUDICATION**BETWEEN**

Naranpura Telephone Exchange, Ahmedabad.

AND

The workmen employed under it.

In the matter of removing the name of the workman **Shri Mehesh S. Rathod**, casual labour, from the strength of office from 22-8-1990 etc.

APPEARANCES:

Shri Bhargav Joshi, Advocate—for the first party.

Shri V. Premchand, Advocate—for the second party.

AWARD

An industrial dispute between the above-named parties was referred for adjudication under section 10(1) of the I.D. Act, 1947 to the Industrial Tribunal under Government of India, Labour Department's Order No. L-40012-30-91-IR-D.U. dated 25-9-1991. Thereafter it was transferred to this Tribunal for adjudication.

2. The industrial dispute relates to the question whether the action of the management of Telecommunication through its officer, Div. Engineer (EXTL) Naranpura Telephone Exchange in removing the name of the workman **Shri Mahesh Suleman Rathod**, casual labour, from the strength of office from 22-8-90 is legal and justified? If not, what relief the concerned workman is entitled to?

3. The second party has in its statement of claim Ex. 4 contended that the concerned workman **Shri Mahesh Suleman Rathod** had joined the first party as casual labourer in the month of April, 1982. His service No. was 421. He was not given any appointment order. He was not given the benefit of weekly off, public holidays etc. He was also not given the benefit of casual leave. He was paid consolidated salary. He had worked for more than 240 days, in every calendar year. On 1-5-88 he had fallen sick and was under the medical treatment on one Dr. Joshi. He was treated by that doctor from 1-5-88 to 11-1-89. Thereafter he took treatment in Civil Hospital, Ahmedabad from 12-1-89 to 30-1-89. He presented before the first party for permitting him to join duties. At that time he had submitted his request in writing. He was not permitted to resume duty. No reasons were assigned for not permitting him to join duties. On 1-11-88 he was informed by the first party that

he had remained absent without getting the leave previously sanctioned. He was suffering from mental disease. On 1-4-89 he had sent a medical certificate about his mental ailment. He took treatment from 9-2-89 to 31-3-89. He had sent that certificate to the first party. Still however, his leave was not sanctioned. On 12-5-89 he again presented himself with the request to permit him to join duty. At that time he had produced medical fitness certificate. Accordingly, he was not allowed to resume duty. He had continued to take medical treatment from 1-4-89 to 12-5-89. He had produced a medical certificate dated 13-10-89 regarding his illness. He also took treatment from 25-10-89 to 4-11-89 as an out-patient in Civil Hospital, Ahmedabad. That certificate was also sent to the first party. He again started taking treatment of Dr. Joshi from 5-11-89 to 18-12-89 and again on 19-12-89, he presented himself with the request to permit him to join duty. He was not allowed to join duty. He was informed that he had remained absent during certain periods without getting the leave previously sanctioned. His explanation was called for. In reply he had narrated all the above facts and requested to permit him to resume duty. His request was turned down. Therefore, the second party has showed to declare that the action of the first party in striking down his name from muster roll is illegal and contrary to the provisions of law with the directions to take the workman back in service and to pay to him back wages with continuity of service.

4. The first party has resisted the statement of claim of the second party by filing its written statement Ex. 7 where it for inter alia contended that the present application is not maintainable at law and this Tribunal has got no jurisdiction to hear and decide it. The concerned workman had not informed his controlling officer about the sickness for the period from 1-5-88 to 11-10-89 and from 12-1-89 to 30-1-89 and consequently he had also not applied for any kind of leave. It has denied that the concerned workman has intimated about the illness and forwarded the medical certificates at that time. It is not true that on 13-1-89 the concerned workman had presented before it for joining duty. On the contrary he had submitted medical certificate for the period from 12-1-89 to 29-1-89 and according to that certificate he was fit for resumption of duty on 30-1-89. Thus the concerned workman had never reported for duty with a fitness certificate till 29-1-89. The contention of the paragraph 5 of the statement of claim are false and misleading. When the application for the first time appeared on 3-1-90 for resumption of duty an explanation was called for from his regarding his absence from duty from 30-1-89 to 8-2-89 and from 14-10-89 to 4-11-89. He had submitted his reply on 18-1-90. The controlling Officer did not find any valid reason for his absence and hence his request to permit him to resume duty was turned down. He was called for personal discussion on 1-6-90. At that time he was informed that he had not sought for any permission for remaining absent. So he was informed accordingly under letter dated 2-6-90. It is, in this way that due opportunity was given to the concerned workman and thereafter the competent authority found no valid reason to continue him on duty. Therefore, on these grounds it has prayed to dismiss the reference with cost.

5. Ex. 27 is the deposition of the concerned workman. The first party has not adduced any oral evidence. The first party has produced the documents under a list Ex. 9. Both the parties rely on these documents in support of their respective contentions. I have heard the learned advocates of the parties and I have gone through the entire record of the case.

6. Some facts are not in dispute. It is an admitted fact that the concerned workman was employed as a casual labourer from 1st April, 1982. He fell sick w.e.f. 1st May, 1988, whereas the contention of the first party that he remained absent from 1st May, 1989 without previously getting the leave sanctioned. Anyway the fact remains that he had worked as a casual labourer from 1st April, 1982 to 20th April, 1988. He has continuously worked during this entire period. He has said in his deposition that his presence used to be marked in the muster roll. That muster roll must be in the possession of the first party. His this version is not challenged by the first party during the course of his cross-examination. Therefore, the first party ought to have produced the

muster roll for the period from 1st April, 1982 to 30th April, 1988 because that would have thrown light about the actual number of days for which the concerned workman had worked during this entire period. It is the contention of the second party that the concerned workman had worked for more than 240 days in every year and so Section 25F of the I.D. Act, 1947 will be applicable to him and the parties will be governed by its provisions in the matter of discharge and retrenchment from service. Therefore when the first party has not produced the muster roll the presumption is that the concerned workman had worked for more than 240 days in every year for the period from 1st May, 1982 to 30th April, 1988. It is an admitted fact that the concerned workman had stopped performing his duty from 1st May, 1988. The contention is that he had fallen sick and so it was not possible for him to report for duty. According to him he had remained sick till 30th January, 1989. Ex. 10 is the xerox copy of letter written by the concerned workman to the first party. It is produced by the first party and so it had admittedly received this letter from the concerned workman. By this letter he had informed the first party that he was suffering from mental disease from 1st May, 1988 to 29th January, 1989 and in support thereof he had sent medical certificates. In the first medical certificate dated 11th January, 1989 Dr. Joshi had certified that the concerned workman was under his treatment from 1st May, 1988 to 11th January, 1989. The second certificate is issued by the Civil Hospital, Ahmedabad. It shows that he was treated as an outdoor patient from 12th January, 1989 to 29th January, 1989. It also inter alia makes a mention about the fact that he was fit to resume duty from 30th January, 1989. Thus in support of his version these were the medical certificates produced by him. He had also informed the first party about the sickness on 30th January, 1989. It is true that there is nothing on the record to show whether he had given intimation to the first party about the sickness prior to 30th January, 1989. Thus for a period of 8 to 9 months he had remained absent on the ground of sickness. He had not given intimation to the first party during that period. During the course of cross-examination, it was suggested that he was not suffering from any sickness and that he had remained absent on the basis of false certificates obtained by him. The concerned workman has denied this suggestion. It appears that the medical certificates are in favour of the concerned workman. They go to support his version. Hence the first party in order to see that the concerned workman does not succeed, has tried to doubt the medical certificates. However, the medical certificates are genuine. One of the certificates was issued by Civil Hospital, Ahmedabad. Some suggestion during the course of cross-examination that the certificates are false will not do. There is something on the record to throw doubt about the genuineness of the certificates and correctness of its contents. These certificates will have to be taken into contention as they clearly go to establish that he was sick from 1st May, 1988 to 29th January, 1989. It appears that he again fell sick and he was treated by Dr. Patel. As per certificate Ex. 11 he was suffering from Malaria from 30th January, 1989 to 8th February, 1989. This certificate is also produced by the first party. The forwarding letter under which the certificates are produced by the concerned workman is not produced by the first party. Therefore there are reasons to believe that the concerned workman must have intimated about his this sickness before 8th February, 1988. There is another certificate issued by the very same doctor for the period from 9th February, 1989 to 31st March, 1989. It appears that he was suffering from continuous pyrexia with severe headache and general body ache with debility. It appears that he was referred to Civil Hospital, Ahmedabad. Ex. 13 is another certificate. He was then treated by Dr. Joshi from 1st April, 1989 to 12th May, 1989. Ex. 15 is another certificate issued by Dr. Patel to show that he had treated him from 13th May, 1989. Thereafter on 16th May, 1989 the concerned workman submitted a written request at Ex. 14 for permitting him to join duty and at that time he had informed the first party that he has recovered from illness. Thus he had already intimated about his illness on 30th January, 1989 and again on 16th May, 1989 and during this entire period he had sent certificates and thus he had posted the first party with the knowledge about sickness though of course at that time he had not applied for leave. Anyway he was sick and so he was not able to perform his duty. Therefore there was ample justification for him to not to report for duty. The only circumstance against him is that he had not applied for leave or had not got his leave previously sanctioned. Now one would not certify that he

would fall sick on the next day and so one cannot supposed to apply for leave on the ground that he is going to fall sick on the next day. Sickness is accidental in nature. It would never be anticipated by anybody. Therefore when one falls sick accidentally or immediately, it would not be permissible to expect that he ought to have got his leave previously sanctioned before falling sick. Ex. 16 is another certificate for the period from 14th October 1989 to 24th October, 1989. It appears that on 19th December, 1989 the concerned workman had applied in writing for permitting him to join duty. At that time it appears that he had produced certificate Ex. 18 to show that he was under treatment from 5th November, 1989 to 18th December, 1989 and was fit for duty from 19th December, 1989. Then again on 3rd January, 1990 he submitted application Ex. 19 for permitting him to join duty. In reply thereto his explanation was called for under a letter Ex. 20. He was informed to render explanation for his absence for the period from 30th January, 1989 to 8th February, 1989 and from 14th October, 1989 to 4th November, 1989. Thus his explanation for the period prior to 30th January, 1989 was not called for and so there are reasons to believe that his version that he was sick prior to 30th January, 1989 was accepted and consequently his explanation was not called for. The explanation for his absence for the period from 9th February, 1989 to 13th October, 1989 was not called for by Ex. 20 and so there are reasons to believe that the contention that he was sick during this period was accepted. Accordingly the concerned workman had rendered his explanation dated 18th January, 1990 as per Ex. 21. He had stated that he was really sick and that he has already produced medical certificates. His this explanation was not believed as per Ex. 22 which does not contain any reasons. By this letter he was intimated about the regret of the first party. It is already held by me that genuine is of the certificates cannot be questioned. There is merely a suggestion about the procurement of false certificate by the concerned workman. The concerned workman had denied that suggestion. The first party has not produced any evidence creating doubt about the certificates. Some of the certificates were produced before 18th January, 1990. Thus the say of the concerned workman was supported by medical certificates. Ex. 22 does not say that the certificates were falsely procured by the concerned workman and so his request for permitting him to join duty cannot be considered. The concerned workman was therefore at a loss to know the exact reason for which he was not permitted to join duty as per Ex. 22. It appears that the first party had some discussion with the concerned workman. This is apparent from a mention about it in Ex. 23. In this letter there is a mention about his absence from 1st May, 1988, but then, under Ex. 20 his explanation was not called for his absence from 1st May, 1988 to 29th January, 1989. By Ex. 23 also, the first party had expressed its regret to the concerned workman. This is, therefore, the documentary evidence on the record.

7. It is clear from the documents discussed in the above paragraphs that no departmental enquiry was held against the concerned workman. He was not served with any charge sheet regarding his alleged misconduct in remaining absent for a long period without getting his leave previously sanctioned. He was not served with any discharge order. The first party had expressed its regrets in reply to the written requests made by the concerned workman for permitting him to resume duty. The first party would be entitled to retrench a workman under certain circumstances under Section 25F of the I.D. Act, 1947. The employer had to follow mandatory requirements contained in this provision before retrenching any workman. The retrenchment should be fair and simple. Therefore if the retrenchment is in the nature of measure of punishment the employee cannot resort to Section 25F of the I.D. Act and in that case the employer has to initiate departmental enquiry. In the instant case no departmental enquiry was initiated against the concerned workman. It appears that he was prevented from discharging duty on the only ground that he had remained absent for a long period without getting the leave previously sanctioned. Therefore this would mean that he was not permitted to join duty as a measure of punishment because of his long absence without getting the leave previously sanctioned. Thus this was in the nature of penalty imposed upon him. Therefore, the first party ought to have initiated departmental enquiry against him. He ought to have given an opportunity to defend himself. He ought to have given

an opportunity to prove his illness. It was submitted that the wife of the concerned workman had initiated some maintenance proceedings in some Court and that the concerned workman has admitted that he used to go to the Court in that case at least once in a month. Therefore, it was submitted that he was able to go to the Court and consequently he could have resumed duties. There is no merit in this submission. When the Court issues summons the party has got to go to the Court. If he had not gone to the Court the matter would have been decided *ex parte* against him and thus in that case he would have been saddled with the financial liability to pay maintenance to his wife. He was suffering from mental disease and so his conduct in going to the Court cannot equated with the fitness to discharge of duty. Mere presence in the Court would not amount fitness to discharge of duty. A person may not be in a position to discharge duty which would not mean that he is not in a position merely to remain present. As already said by me the concerned workman had worked for more than 240 days in the calendar years from 1st April, 1982 to 30th April, 1988 and so the first party could not have stopped him from discharging duty without complying with the mandatory requirements contained in Section 25F of the I.D. Act. The first party could have held departmental enquiry and discharged or dismissed him on the ground of absence amounting to misconduct. That was not done by the first party. Hence it appears that the first party has orally terminated the services. Notice of termination of service was not served upon the concerned workman. Notice pay was also not given to him. Gratuity amount was also not paid to him. The retrenchment compensation was also not paid to him. There are all the mandatory requirements required to be followed by the employer at the time of effecting simple termination of service. Thus in the instant case the first party must be held to have violated the mandatory requirements contained in Section 25F of the I.D. Act and so the resultant effect is that the concerned workman must be deemed to have continued in service at least with effect from 18th January, 1990, the date on which he had submitted his request in writing to permit him to join duty. Therefore, he would be entitled to back wages from that date. He would not be entitled to wages from 1st May, 1988 to 17th January, 1990.

8. In view of what is discussed by me in the above paragraphs of this judgement I pass the following order.

ORDER

Prerogative of reference is allowed and so it is held that the action of the first party in not permitting the concerned workman Shri Maheshbhai S. Rathod to join duty w.e.f. 18th January, 1990 is illegal and in violation of the provisions contained in Section 25F of the I.D. Act, 1947. Therefore it is further declared that the concerned workman is deemed to have continued in service and so he would be entitled to wages from 18th January, 1990 but would not be entitled to wages for the period from 1st May, 1988 to 17th January, 1990 the period during which he was admittedly sick. In the facts and circumstances of this case the parties are directed to bear their own costs.

सद/-

Secretary,

Ahmedabad, 25th November, 1992.

H. R. KAMODIA, Industrial Tribunal

सही दिल्ली, 8 दिसम्बर, 1992

भा. भा. 23--आधुनिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में, केन्द्रीय सरकार सिलबोरा-कालीमाटी मैन्सजॉन मार्गज मी. मशीनरिय यण्टा. के उपभोक्ता के नोटिफिकेशन और उनके अधिकारों के बीच, अनुसूची में निम्न आधुनिक विवाद में आधुनिक अधिकरण, उर्दू भा. (मुम्बई) के नोटिफिकेशन का प्रकाशित करना है, जो केन्द्रीय सरकार को 7-12-92 को प्राप्त हुआ था।

[संख्या एल - 27012/3/90-सही धार (विवाद)]

जी. एम. ई.डी. ई.डी. अधिकारी

New Delhi, the 8th December, 1992

S.O. 28.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa (Bhubaneswar) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Siljor—Kalimati, Manganese Mines of M/s. Mangilal Rungta and their workmen, which was received by the Central Government on the 7-12-92.

[No. L-27012/3/90-IR(MISC)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL, TRIBUNAL, ORISSA, BHUBNESWAR

PRESENT:

Sri R. K. Dash, LL.B.,

Presiding Officer,

Industrial Tribunal,

Orissa, Bhubaneswar.

Industrial Dispute Case No. 41 of 1990 (Central)

Dated, Bhubaneswar, the 20th November, 1992

BETWEEN:

The Management of Siljor-Kalimati Manganese Mines of M/s. Mangilal Rungta, At/P.O. Siljora Dist. Keonjhar.

...First Party—management

(And)

Their workman Smt. Sabitri Sardar, Creche Aya, At Kalimati, P.O. Dubna, Via: Joda, Dist: Keonjhar.

...Second Party workman.

APPEARANCES:

Sri A. Banerjee, Asst. Manager (P&A)—For the first party-management.

Sri B. Khillar, General Secretary of Orissa Mining Workers Union—For the second party-workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred upon it by clause(d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication by this Tribunal vide their Order No. L-27012/3/90-IR(Misc.) dated 7-11-90:

“Whether the action of the management of Siljora Kalimati Manganese Mines of M/s. Mangilal Rungta, At/P.O. Siljora, Via: Joda, Dist. Keonjhar (Orissa) in refusing employment to Smt. Sabitri Sardar, Creche Aya with effect from 30-3-88 is justified? If not, what relief the workers is entitled to?”

2. To put shortly, the case of the workman is that she was in employment of M/s. Siljora Kalimati Manganese Mines of Mangilal Rungta as an ‘Aya’ of Kalimati Creche and for no reason and rhyme the management refused her employment since 30-3-80. The management on the other hand has pleaded inter-alia that as the aforesaid children creche was closed due to decline of labour strength the workman was transferred to Siljora creche on 3-3-88 and was asked to join there but she did not for which she was proceeded against for disobedience of order of the authority. On being noticed the neither submitted any explanation nor joined her duty. On the other hand, she requested the management to settle-up her claim finally as she was no more interested in the job. She having left the job on her own accord cannot accuse the management that she had been thrown out of employment. It is further pleaded that as the workman was a lady of questionable character and there were many com-

plaints against her by her neighbours, apprehending trouble to her, the management transferred her from Kalimati centre to Siljora.

3. In view of the pleadings of the parties, the simple question for consideration is whether the workman was denied of employment by the management or she left the job on her own accord.

4. The management to prove its case has examined the witnesses whereas the workman has examined herself and has brought some documents into evidence.

Witness No. 1 for the management would say that the workman on being transferred to Siljora refused to receive the transfer order and join her new place of posting. According to him, such transfer was effected as the children centre at Kalimati where the workman was working as an ‘Aya’ was closed. While being cross-examined he denied to have knowledge about service of the transfer order. On the other hand, the second witness for the management has deposed that it was witness No. 1 who served the transfer order on the workman. In view of such contradictory evidence. It is difficult to believe the management's plea of transfer of the workman from Kalimati to Siljora.

Refuting the allegations of the management the workman has asserted that the management refused her employment without intimating the reasons thereof in writing. She approached the management time and again to take back her to service and to pay her legitimate dues but the same was not heeded to. She also intimated the management by registered letter, Ext. E that if she was not taken into service despite of all requests she would be compelled to approach the labour machinery for necessary relief. The said registered letter returned back as the management refused to receive the same.

5. From the aforesaid evidence and circumstances, it is crystal clear that the management without any reasonable cause refused employment to the workman who had by then served three to four years as deposed to by witness No. 1 for the management. Such refusal, in my opinion, being illegal and unjustified, she should be treated to be continuing in service. There having no material that after refusal of employment she has taken up a job elsewhere, she is entitled to all back wages. The back wages be paid within three months from the date of publication of this award.

Dictated & corrected by me.

R. K. DASH, Presiding Officer

नई दिल्ली, 8 दिसम्बर, 1992

का. प्र. 29.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बम्बे पोर्ट ट्रस्ट के प्रबंधन के संबंध निम्नलिखितों और उनके कार्यकर्ता के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, बम्बई के पंचपद को प्रकाशित करती, है, जो केन्द्रीय सरकार को 7-12-92 को प्राप्त हुआ था।

[संख्या एल-31012/10/90-आई प्रार (विधि)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th December, 1992

S.O. 29.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bombay Port Trust, Bombay and their workmen, which was received by the Central Government on the 7-12-92.

[No. L-31012/10/90-IR(MISC)]

B. M. DAVID, Desk Officer

ANNEXURE

नई दिल्ली, 8 दिसम्बर, 1992

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 BOMBAY

PRESENT:

Shri P. D. Apshankar, Presiding Officer.

Reference No. CGIT--2/86 of 1990

PARTIES:

Employers in relation to the management of Bombay Port Trust, Bombay.

AND

Their Workmen

APPEARANCES:

For the Employers—Shri M. T. Khopkar, and Shri P. M. Vartak, Representatives.

For the Workman—Shri Jaiprakash Sawant, Representative.

INDUSTRY : Port & Docks STATE : Maharashtra.
Bombay, dated the 9th November, 1992

AWARD

The Central Government by their order No. L-31012/10/90-IR(Misc.) dated 7-11-1990 have referred the following Industrial Dispute to this tribunal for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947.—

"Whether the action of the management of Bombay Port Trust, Bombay in terminating the services of Shri Tulsidas Basudeo Warekar, Scavenger, Docks Department, w.e.f. 18-4-1980 is justified? If not, to what relief the workman is entitled?"

2. The Secretary of the B.P.T. Employees Union filed his Statement of Claim (Ex. 2) challenging the said action of the B.P.T. Management.

3. The Secretary of the B.P.T. filed his Written Statement (Ex. 3) in support of the action of the management.

4. The necessary Issues were framed on the basis of the pleadings of the parties at Ex. 4.

5. Thereafter, while the reference was at the stage of the evidence of the workman, both the parties came to an amicable settlement, and filed their terms of compromise (Ex. 8), which are thus :

(i) Shri Tulsidas Vasudeo Warekar shall be re-employed by the Bombay Port Trust as a fresh recruit, as a Scavenger in the Docks Department without back wages subject to the usual conditions including certification of physical fitness by Bombay Port Trust Medical Officer.

(ii) On re-employment Shri Tulsidas Vasudeo Warekar, as a fresh recruit, his past service shall not be counted for any service or retirement benefits such as seniority, promotion, pension, gratuity etc.

(iii) Shri Tulsidas Vasudeo Warekar has no other claim or dispute.

(iv) The Bombay Port Trust Employees' Union agrees to withdraw the dispute in full and final settlement of its workmen's claim in this respect.

6. The said settlement has been signed by the workman himself and by the secretary of the B.P.T. employees union, and by the officer of the B.P.T. management. The workman made a statement before me that he had accepted and approved all the conditions as mentioned in the said settlement. I find that this settlement is quite in the interests of both the parties. As such I accept it. Therefore the Award is drawn in terms of that settlement (Ex. 8).

The parties to bear their own costs of this reference.

Dated : 9th Nov. 1992

P. D. APSHANKAR, Presiding Officer

का.मा 30—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में केन्द्रीय सरकार गंधामर्दन बोक्साइट प्रोजेक्ट में, झारखण्ड के प्रखण्डों के संबद्ध नियोक्तों और उनके कर्म-कारों के बीच, अनुसूच में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिनियम उद्घोषा, भुवनेश्वर के पत्रों को प्रकाशित करता है, जो केन्द्रीय सरकार की 7/12/92 की प्राप्त हुआ था।

[पं. एन. ए. 11012/5/86--ड. III(बी)/का. 1- (ग) IV]

बी. एम. डेविड, ईरुहर्ग कारी

New Delhi, the 8th December, 1992

S.O. 30.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Orissa (Bhabancshwar) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Gandhamardan Bauxite Project of M/s. BALCO and their workmen, which was received by the Central Government on the 7-12-92.

[No. L-43012/5/86-D.III(B).D-IV(A)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT :

Sri R. K. Dash, LL.B.,

Presiding Officer

Industrial Tribunal,

Orissa, Bhubaneswar.

Industrial Dispute case No. 57 of 1987 (Central).

Dated, Bhubaneswar, the 7th November, 1992

BETWEEN

The management of Gandhamardan Bauxite Project of M/s. BALCO (Bharat Aluminium Co. Ltd.), At O.P. Paikmal, Distt. Sambalpur.

.. First Party-management

AND

Their workman Sri Nadu Bartia, Cook, C/o. Sri S. N. Mudali, General Secretary, United Mines Mazdoor Union, House No. 33, Saktinagar, Rourkela, Distt. : Sundergarh.

.. Second Party workman.

APPEARANCES :

None.—For both the parties.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause(s) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-43012/5/86-D.III(B).D-IV(A) dated 17-8-87 :—

"Whether the action of the management of Gandhamardan Bauxite Project of M/s. Bharat Aluminium Co. Ltd., At P.O. Paikmal, Dist : Sambalpur in terminating the service of Shri Nadu Bartia, Cook w.e.f. 8-12-1985 is justified? If not, to what relief is the workman entitled?"

2. Both parties were sufficiently noticed as it appears from the postal acknowledgement receipts. Despite of it, they remained absent and did not take steps on the date of hearing. As it appears, they are no more interested in the case. In absence of any evidence, it is difficult to answer the reference in either way. Hence a no dispute award is passed in so far as the present reference is concerned. Dictated & corrected by me.

Dt. 7-11-92.

R. K. DASH, Presiding Officer

नई दिल्ली 11 दिसम्बर, 1992

का.घा. 31.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेट्टल कैंटन ब्रीडिंग फार्म चिपिलिमा के प्रबन्धक के नब्बद नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण प्रबन्धक के पंचपट का प्रभावित काली है, जो केन्द्रीय सरकार को 8-12-92 को प्राप्त हुआ था।

[स एल-42012/185/89-आई.अर. (डी यू) (P.L.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 11th December, 1992

S.O. 31.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Cattle Breeding Farm, Chipilima and their workmen, which was received by the Central Government on 8-12-92

[No. I-42012/185/89-IR(DU)(P.L.)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA BHUBANESWAR
PRESENT :

Sri R. K. Dash, LL.B.,

Presiding Officer,

Industrial Tribunal,

Orissa, Bhubaneswar.

Industrial Dispute case No. 29 of 1990 (Central).

Dated, Bhubaneswar, the 27th November, 1992

BETWEEN :

The management of Central Cattle Breeding Farm,
Chipilima, P.O. Basantpur, Distt. : Sambalpur, Orissa.

... First Party—management.

AND

Their workman Sri Narendra Kumar Panda, represented
through Central Cattle Breeding Farm Labour
Union, At: Chipilima, P.O. Basantpur, Distt. :
Sambalpur.

... Second Party—workman.

APPEARANCES :

Sri Balabhadra Panda, Agril. Assistant.—For the first
party—management.

Sri D. P. Nayak, President of the Union.—For the second
party—workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), (hereinafter referred to as the 'Act') referred the following dispute for adjudication by this Tribunal vide their Order No. L-42012/185/89-IRDU dated 27-7-90 :—

"Whether the action of the management of Central Cattle Breeding Farm, Chipilima, P.O. Basantpur, Distt. : Sambalpur, Orissa in terminating the services of Sri Narendra Kumar Panda from 6-7-88 is justified? If not, to what relief is the workman entitled to?"

2. Briefly stated the case of the workman is that he was initially appointed as a Sick line Attendant on daily wage basis for a particular period from 16-4-86 to 31-12-86 in the Central Cattle Breeding Farm, Chipilima. Subsequently, on the recommendation of the Selection Committee he was appointed as a Clerk on daily wage basis for a period of three months with effect from 26-11-87. On completion of the said period he was neither reverted nor his services were terminated. Rather, he was allowed to continue to work as a Clerk when his services were terminated on 6-7-88. The management alleging that he remained absent from duty on 1-7-88 and 2-7-88 without prior permission or sanction of leave, asked him to explain as to why his name should not be struck off from the Muster Roll. Though, he submitted his explanation but the management without holding any enquiry and without giving him an opportunity of being heard, took such a harsh step by putting an end to his service. Hence, it is urged that such action of the management in terminating his services is illegal and in violation of the principles of natural justice.

3. Disputing the Central Cattle Breeding Farm an 'industry' the management has pleaded inter-alia that the workman was engaged as a Sick Line Attendant for a small period and thereafter as a Clerk on daily wage basis. His engagement under any of those two posts never exceeded 240 days and so, he is not entitled to any relief under the Industrial law. As to the factual aspect necessitating termination of the services of the workman, the case of the management is that on 1-7-88 and 2-7-88 he remained absent from duty without obtaining prior permission from the authority. Being asked to explain about his absence, he submitted an out-door ticket of the Medical College Hospital, Burla by manipulating the date to show that he attended the hospital for his treatment on 2-7-88. This out-door ticket was not accepted and consequently by order dated 6-7-88 his services were terminated with immediate effect. In the premises, it is urged that such action of the management having been taken in accordance with law does not call for interference by this Tribunal.

4. In course of hearing, both parties have examined one witness each and proved certain documents. Before going into the merit of the case, at the out-set it is desirable to give a finding as to whether the Central Cattle Breeding Farm, Chipilima is an 'industry' or not. The management neither led any evidence nor advanced any argument to show that the activities of the Farm do not fall within the ambit of 'industry' defined in the Act. On the other hand, the workman's representative in course of argument as well as in the written note of submission has given out a detail as to the functioning of the Farm. It is contended that it is a breeding farm of improved variety of cattle for sale to the public. Moreover, the Farm produces milk, milk products and manufactures cattle fodder for sale. Keeping in view the wide scope of the definition 'industry' propounded by the Apex Court in Bangalore Water Supply and Sewerage Board v. A. Rajappa & others, reported in 1978 141 I.C. 467, I hold the Farm in question to be an 'industry'.

5. Now coming to the main dispute, admittedly, the workman was initially appointed as a casual labour on 16-4-86 and subsequently on the recommendation of the Selection Committee he was allotted duty as a Clerk on daily wage basis till his services were terminated. The reason for

such termination as deposed to by the sole witness for the management is that he remained absent from duty for two days i.e., on 1-7-88 and 2-7-88 without submitting any leave application. On being asked to explain the reason for his absence, he submitted an out-door ticket to satisfy the authority that he being ill could not attend to his duty. The date mentioned in the said out-door ticket, according to the witness, was interpolated. So, taking into consideration of such interpolation as well as unauthorised absence from duty the management removed him from service. Admittedly, no enquiry was taken-up and no reasonable opportunity was afforded to the workman to justify his absence from duty. In the premises, I am inclined to hold that the action of the management, as aforesaid, is quite arbitrary and in violation of the principles of natural justice. When the management being satisfied with his work as a casual labourer could promote him to work as a Clerk, his mere absence from duty for two days would not have been taken serious note of and considered as a 'grave misconduct' to award him the extreme punishment.

6. In view of my discussions made above, I hold that the termination of services of the workman is illegal and unjustified. He be reinstated in his job as was being done before and be paid all back wages. Payment of back wages be made within three months from the date of publication of this Award.

Dictated & corrected by me.

R. K. DASH, Presiding Officer

नई दिल्ली, दिनांक 11 दिसम्बर, 1992

का.प्र. 32.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देहरी रोहतास लाइट रेलवे कम्पनी लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-92 को प्राप्त हुआ था।

[एन—41011/28/84—डी 2(बी) (पीटी)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 11th December, 1992

S.O. 32.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Dehri Rohtas Light Railway Co. Ltd. and their workmen, which was received by the Central Government on 10-12-92.

[No. L-41011/28/84-D.II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram,
Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 68 of 1986

PARTIES :

Employers in relation to the management of Dehri Rohtas Light Railway Co. Ltd. and their workmen.
3087 GI/92-3.

APPEARANCES :

On behalf of the workmen.—None.

On behalf of the employers.—None.

STATE : Bihar.

INDUSTRY : Light Railways.

Dated, Dhanbad, the 30th November, 1992

AWARD

The Govt. of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 had referred the following dispute to the Central Govt. Industrial Tribunal No. 1, Dhanbad vide Ministry's order No. L-41011(28)/84-D.IIB dt. 18-1-85. But subsequently vide Ministry's Order No. S-11025(5)/85-DIV(B) dated, the 14th January, 1986 the said reference was transferred to this Tribunal.

SCHEDULE

"Whether the action of the management of Dehri Rohtas Light Railway Co. Ltd. in declaring Lockout in their workshop at Dehri Rohtas w.c.f. 10-7-84 is justified? If not, to what relief are the workmen entitled?"

2. The matter is pending since the year 1986 for disposal. From the record I find that inspite of several notices issued to the parties none appeared nor they filed any W.S. It seems that nobody is interested in pursuing the case. In the circumstances a 'No dispute' Award is passed.

B. RAM, Presiding Officer

नई दिल्ली, दिनांक 11 दिसम्बर, 1992

का.प्र. 33.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-12-92 को प्राप्त हुआ था।

[एन—42012/83/89—आई. प्रार (डी यू) (पीटी)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 11th December, 1992

S.O. 33.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 10-12-92.

[No. L-42012/83/89-IR(DU)(Pt.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram,
Presiding Officer

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 28 of 1989

PARTIES :

Employers in relation to the management of C.P.W.D. and their workmen,

APPEARANCES :

On behalf of workmen.—Shri D. K. Jha, Advocate

On behalf of the employers.—None.

STATE : Bihar INDUSTRY : Construction (Public Works)

Dhanbad, the 27th November, 1992

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012[83] 89-I.R. (D.U.), dated, the 13th December, 1989.

अनुमति

“बन्धु मजदूरों के लिए केन्द्रीय लोक निर्माण विभाग (खाद्य संयंत्र) उप-मंडल के प्रबंधन द्वारा उनके कर्मकार श्री हरदेव राय को बिना किसी कारण बताए एवं बिना किसी के पूर्व सूचना के नौकरा से दि. 10-3-85 से हटा दिये जाने की कार्रवाई उचित है? यदि नहीं कर्मकार किस अनुपात के अधिकारी हैं।”

2. This reference was pending for filling W.S. by the management. Hearing was not started as yet. In the meantime I find that on 24-4-92 a petition was filed by the Executive Engineer, C.P.W.D., Kaupur stating therein that Shri Hardeo Rai, Beldar/Chowkidar has already been permitted to join his duties with effect from 5-2-91. Accordingly it has been prayed that no dispute award be passed. From the W.S. filed by the workmen I find that he had joined services in Food Storage Sub-Division, Central P.W.D. Muzaffarpur as Beldar with effect from 31-3-84 and he continued to serve till 9-3-85. But he was suddenly stopped from his duties from 10-3-85 without assigning any reason.

3. Since the matter has already been resolved and the concerned workman has been reinstated, I find no reason as to why a 'No dispute' Award should not be passed. Accordingly, since no dispute is existing between the parties, a 'No dispute' Award is passed.

B. RAM, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 1992

का.आ. 34.—औद्योगिक विवाद अधिनियम, 1997(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मेगर्स ज्योति इन्टर-प्राइसेस गोविन्दपुर के प्रबंधन के संबंध निम्नलिखितों और उनके कर्मकारों के बीच अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (स. 1), धनबाद के पंचाट को प्रकाशित करने है, जो केन्द्रीय सरकार की 4-12-92 को प्राप्त हुआ था।

[संख्या एल-20012(94)/90-आई.आर. (कोल-II)]

एल. सी. गौन, डेस्क अधिकारी

New Delhi, the 7th December, 1992

S.O. 34—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Jyoti Enterprises, Govindpur

and their workmen, which was received by the Central Government on 4-12-92.

[No. L-20012/94/90-IR(Coal-I)]

HARISH GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 89 of 1990

PARTIES:

Employers in relation to the management of M/s. Jyoti Enterprises, Govindpur.

AND

Their Workmen

PRESENT:

Shri S. K. Mitra, Presiding Officer.

APPEARANCES:

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal

Dhanbad, the 25th November, 1992

AWARD

By Order No. L-20012(94)/90-I.R. (Coal-I), dated the 19th April, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/s Jyoti Enterprises, Hard Coke Manufacturer in closing their establishment with effect from 28-11-1989 and denying employment to the workers listed in Appendix-A is justified? If not, to what relief the workmen are entitled?”

परिशिष्ट ए (APPENDIX-A)

ज्योति इन्टरप्राइजेज, पोस्ट केजी आश्रम, गोविन्दपुर धनबाद, बिहार कोलियरी कामगार यूनियन

(कार्मैन)

1. नारायण महतो
2. जगदीश शर्मा
3. लखन शर्मा
4. विमल यादव
5. योगेश्वर मिश्र

(टांकेमान)

1. मेधा भूषा
2. गोती यादव
3. श्याम लाल महतो
4. रामा प्रसाद (Working from April/May 1989)

(अपेक्षित अडिटा बोट)

1. अनन्य स्टाई Absenting from Oct.
2. अनन्य पीनार्ड

3. पुरस्नम बिसाई
4. निरंजन बिसाई
5. गुरेन्द्र साहू Not present
6. कामू भूया -- do
7. सुवास बिसाई -- do
8. परि स्वाई (On Leave)

(स्टोकिंग दंगल)

1. योगी प्रधान from 1985 March
2. रंको प्रधान Absent
3. मंगल लेका Leave
4. योगी पोलाई Absent
5. हिलो पोलाई more absent
6. जटिया बिसाई Absent
7. बूर्जा बहरा Absent
8. जूधिल्लर रेड्ड working from 2 years
9. बंधिया स्वाई --do-
10. तारनी स्वाई Leave (working from 2 years)
11. विदेशी प्रधान Leave from Nov.
12. बया स्वाई -Jo-
13. राजू पोलाई Bhand
14. बईम पोलाई -do-

(भरुबिगा स्टोकिंग)

1. कलेष्वर भूया
2. गुनेष्वरी (ESI Card)
3. मंडल भूया claiming 1-1/2 years -- No Card
4. गीता देवी claiming 11 months
5. गकुल भूया
6. कुली देवी Claiming 6 years -- No card
7. परमा नन्व राम Casual Claiming April 1989
8. राम बालक भूया Absent today
9. भियानक भूया Casual, Claiming 2 years, No Card.
10. सौभाग्य भूया Left
11. मुखदेव भूया Not present
12. सोनिया देवी Claiming one year

(हाजिर में)

1. दोमन यादव Casual
2. रजिन्दर यादव Left present & claiming 1 year
3. भीम दास Claiming 1 year
4. गुनील मंडल Not present today, claiming 1 year
5. सुनील मंडल --do-
6. बिहारी मंडल
- 7.
8. गणेश मंडल Absent today, claiming 1 year
9. शंकर कुमार
10. कोकिल मंडल Casual
11. रतन बाबरी ESI Card
12. ब्रह्म मालि Casual, Claiming 1987

13. मोहन मंडल Not present today, claiming 1987

14. रीतलाल मंडल Casual

15. अमीन मंडल Casual

16. दुबुवा मंडल ESI Card

17. हार् मंडल Claiming 1 year

18. खीम मंडल ESI Card

19. रवि मंडल Casual

20. कोशी मंडल 16/12/1988 Diary

21. रवि लाल मंडल Casual

22. फकीर गोरई Claiming 1 year

23. गंगोक्त बाउरो Casual

(छानिमें)

1. परिषाण मंडल

(ऐषर मल)

1. नगीना प्रसाद Casual

2. सुंदरन सिंह हेल्कर Left in two years

(भट्टा मित्री)

1. नरवर कुमन

(छानामें)

1. सोबू ठाकुर

2. The order of reference was received in the office of the Tribunal on 24-4-1990. After receipt of the order of reference notice was issued to the Secretary, Bihar Colliery Kamgar Union, Dhanbad. Thereafter several adjournments were given to the union to file written statement. In spite of that no step has been taken by the union to file written statement on behalf of the workmen and in the circumstances, I am constrained to pass 'no dispute' award in the present case.

3. Accordingly, I pass 'no dispute' award in this case. In the circumstances of the case, I award no cost.

This is my award.

S. K. MITRA, Presiding Officer.

[N.S. L-20012(94)/90-IR (C-1)]

नई दिल्ली, 7 दिसम्बर, 1992

का. प्रा. 15 -- औद्योगिक विवाद अधिनियम, 1947 (1947 14) की धारा 17 के अनुसूची में, केन्द्रीय सरकार निम्नलिखित एरिया में भारत कोकिंग कोल लि. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, प्रत्यक्ष में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचपट को प्रकाशित करने है, जो केन्द्रीय सरकार को 4-12-92 को प्राप्त हुआ था।

[संख्या एन. - 20012(92)/86-डी-III (ए)]

एच. सी. गौड, उपाध्यक्ष

New Delhi, the 7th December, 1992

S.O. 35.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sijua Area of M/s. B.C.C.L. and their workmen which was received by the Central Government on 4-12-1992.

[No. L-20012(92)/86-D.III (A)]

HARISH GAUR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. (2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d)
of the I. D. Act, 1947

Reference No. 313 of 1986

PARTIES :

Employers in relation to the management of Sijua Area-
V of Bharat Coking Coal Limited and their work-
men.

APPEARANCES :

On behalf of the workmen—Shri B. B. Pandey, Advocate.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, the 24th November, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (92)/86-D.III (A), dated, the 1st July, 1986.

SCHEDULE

“Whether the demand of Mine Mazdoor Union that the management of Sijua Area-V of Bharat Coking Coal Limited should take back in employment the workmen, whose names are given below, with back wages and other benefits of service, is justified? If so, to what relief are these workmen entitled?”

1. Shri Bishundhari Bhuiya,
2. Shri Rupan Bhuiya,
3. Shri Dwarika Bhuiya,
4. Shri Sukar Bhuiya,
5. Shri Parmeshwar Bhuiya,
6. Shri Fekan Bhuiya,
7. Shri Jadu Bhuiya,
8. Shri Ohhagar Ram,
9. Shri Kara Manjhi,
10. Shri Badi Bhula,
11. Shri Sheobhajan Bhuiya,
12. Shri Basu Bhuiya,
13. Shri Mangur Bhuiya,
14. Shri Sohan,
15. Shri Kameshwar Singh,

16. Shri Mithu Bhuiya,
17. Shri Ram Awatar,
18. Shri Kali Bhuiya,
19. Shri Maijnath,
20. Shri Narbadeshwar,
21. Shri Phagu Turl,
22. Shri Kapildeo Dhobi,
23. Shri Parmeshwar Bhuiya,
24. Shri Sacha Bhuiya,
25. Shri Jageshwar Bhuiya,
27. Shri Ramlakhan Ram,
27. Shri Govind Singh,
28. Shri Chandrika Mahato,
29. Shri Nanku Bhuiya,
30. Shri Parsadi Bhuiya,
31. Shri Sonaram Kumar,
32. Shri Chhota Gohare,
33. Shri Ramhelawan Bhuiya,
34. Shri Shiv Bhuiya,
35. Shri Arjun Gope,
36. Shri Gangi Bhuiya,
37. Shri Rambrich Bhuiya,
38. Shri Makut Napit,
39. Shri Alim Mohammad,
40. Shri Shivmurat Pasi,
41. Shri Jago Bhuiya,
42. Shri Bisun Bhuiya,
43. Shri Jangi Bhuiya,
44. Shri Ramdhani Bhuiya,
45. Shri Kalika Bhuiya,
46. Shri Ali Hussain Mia,
47. Shri Kuleshwar Bhuiya,
48. Shri Santu Koiri,
49. Shri Jethu Bhuiya,
50. Shri Badri Bhuiya,
51. Shri Indrabhan Ram,
52. Shri Rameshwar Bhuiya,
53. Shri Cutha Mahato,
54. Shri Jithu Bhuiya,
55. Shri Bhola Orangh,
56. Shri Dasrath Bhuiya,
57. Shri Parmeshwar Bhuiya,
58. Shri Ramdeo,
59. Shri Jageshwar Bhuiya,
60. Shri Tulsi Dusad,
61. Shri Jagdish Bhuiya,
62. Shri Shohral Bhuiya,
63. Shri Jitu Kumar,
64. Shri Jagdish Bhuiya,
66. Shri Ramkhelawan Bhuiya.
65. Shri Rachu Bhuiya,

2. All the concerned workmen of this reference were stated to be the concerned workmen in Ref. 38/68 in which an Award was passed on 31-12-1973 directing the management of Nichitpur Colliery of M/s. BCCL to reinstate with 50% of back wages. There was further direction that the concerned workmen will report for duty within 45 days from the date of the publication of the Award failing which the management of Nichitpur Colliery will not be bound to reinstate

them. It so happened that the question of implementation of the said award came up before the management and finally a settlement was arrived at between the management of BCCL Sijua Area and the workmen of Nischitpur Colliery represented by Mines Mazdoor Union on 5-2-81, and the said settlement was registered under rule 58(u) of the I. D. (Central) Rules, 1957.

3. Under para 3 of the settlement there was an arrangement that the management will satisfy itself to the correct identity of the concerned workmen before offering them employment and for that purpose the management shall be assisted by a committee consisting of 3 persons. In pursuance of that settlement all 66 workmen were allowed to resume their duties but they worked only for 2 months and all of a sudden their services were discontinued in pursuance of the office order dated 22-11-1982 under the signature of the General Manager, Sijua Area. It was submitted through the W.S. that the cancellation of the appointment order and discontinuance of their employment by the aforesaid office order was bad in law, arbitrary and in gross violation of the terms of settlement. The management did not conduct any enquiry before stopping the concerned workmen. Under the circumstances it has been prayed that the concerned workmen be reinstated with full back wages.

4. The management has filed separate W.S. denying the claims of the concerned workmen. It was contended that there were in all 150 workers of Nischitpur Colliery who had raised the industrial dispute vide reference No. 38/68 and the same was decided by the Hon'ble Tribunal No. 3 and the Award was passed on 31-12-73 with necessary direction to the management to reinstate the concerned workmen with 50% back wages. It was contended that as per condition the concerned workmen were to report for duty within 45 days of the publication of the Award but the concerned workmen did not report for duty and thus they forfeited their right under the Award. However, in the year 1980 RLC(C) Dhanbad made a request to implement the Award. The management expressed its inability but somehow or other after a prolonged discussion a settlement was arrived at on 5-2-81 between the management of Mines Mazdoor Union and it was held that the concerned workmen will report for duty to the management within 30 days from the date of the settlement with relevant document. The workmen who reported for duty within stipulated period were given employment. But the workmen whose names appeared in the schedule of the present reference did not report for duties within 30 days and they forfeited their claim for employment as per clause 9viii of the settlement dated 5-2-81.

5. The management further stated that in the month of September, 1982 the Union Secretary approached the management for the employment of the concerned workmen and on his pursuance all the concerned workmen were provisionally allowed to work in the mine. Shri P. Jha, the union Secretary premised to furnish all the particulars in support of the genuinity of the concerned workmen within the period of 30 days but they failed to produce any material evidence and accordingly they were stopped from their duties. In such view of the matter it is contended that the present claim of the concerned workmen are foundless.

6. In the circumstances of the case the point for consideration is as to whether the concerned workmen can be given employment in terms of the reference passed under Ref. No. 38/68.

7. Admittedly, 150 workmen including the 66 concerned workmen as per schedule of the reference had raised industrial dispute under Ref. No. 38/68. While passing award the Hon'ble Tribunal directed the reinstatement of the concerned workmen with 50% of the back wages provided they report for duty within 45 days from the publication of the Award failing which the management will not be bound to reinstate them. According to the management they did not report for duty. However, this aspect of the matter has been denied by the concerned workmen. The Award under Ref. No. 38/68 dated 31-12-73 has been marked Ext. M-1. The concerned workmen in their rejoinder to the W.S. of the management submitted that it was the management who took much time on the ground of verification. In this context I may refer to Ext.

M-2 to M-3. It appears that the matter regarding the implementation of the Award was taken up and discussed quite a number of times and finally it was taken up by the RLC(C), Dhanbad. A letter dated May, 1980 (Ext. M-2) was addressed to the Director, Technical of M/s. BCCL, Koyala Bhawan, Dhanbad with a request to allow the concerned workmen to resume their duty. Ext. M-3 is the reply to that letter. In the letter dated 11-6-80 the management, for the reasons to be recorded therein expressed their inability to implement the award. However, lastly a settlement was arrived as said above on 5-2-81. We find that in the memorandum of settlement there was a clear stipulation that the management shall be at liberty to satisfy itself as to the correct identity of the concerned workmen before offering them employment. It was further agreed that the management for this purpose will be assisted by a committee consisting of Shri P. Jha, Vice-President, Mines Mazdoor Union, Shri Mahato Singh Mukhiya, Nischitpur and Shri Pyarelal Srivastava the then active worker of Mines Mazdoor Union at Nischitpur. This arrangement had to be made keeping in view of the fact that no authentic record or system of the verification of the concerned workmen were available with the erstwhile management. Again para (viii) of the Memorandum of settlement provided that the workmen should report to the management for dealing with their case within 30 days of the settlement failing which he will have no claim for re-employment. We find that before expiry of one month a letter dated 2-3-81 (Ext. M-5) was sent to the General Manager, BCCL Sijua Area No. V by Shri S. D. Singh, General Secretary, Janta Mazdoor Sangh raising objection over the constitution of the committee. It was stated that the ultimate responsibility of correct verification of the workmen rests with the management. Through the letter it was suggested that a fresh committee should be constituted cancelling the previous one. We find that in pursuance of that letter a meeting was held on 4-3-81 in which the representative of the union and the management participated. The minute of discussion will show that a number of items were taken up for discussion. Item No. 12 concern the workmen of Nischitpur Colliery whereby it was decided that the persons who claim to be the real person will submit three copies of duly attested photographs and the same will be pasted in a register against the name of each. Two registers with photographs will be kept separately at area office and at Nischitpur Colliery and will be opened for general worker for giving objection if any. It was also decided that the names of old workers will be displayed on the notice board of Nischitpur Colliery for general notice and if any objection is received within 45 days from the date of display it will be deemed to be final. However, if any objection is received regarding the correct identity of any worker who claims for employment, such worker will not be allowed to be employed till his identity is thoroughly verified.

8. We have no document to show as to whether the decisions taken above was acted upon or not and how and in what manner the verification was made. But we have before us two important documents (Ext. W-1 and W-3) which can throw sufficient light on this matter. Ext. W-2 is the office order dated 6-10-82 of the Agent, Nischitpur Colliery whereby 12 workmen were allowed to report for duty purely on temporary basis. Similarly through Ext. W-3 23 workmen were allowed to report for duty temporarily. The conditions stipulated in the office order (Ext. W-2 and W-3) were that the persons concerned are hereby allowed to report for their duties temporarily on their own undertaking regarding their genuineness to the A.C.M. concerned with the warning therewith that if any time in any case there arises any discrepancy as to their genuineness their services shall terminated without issuing any notice and moreover they shall be liable for legal action. In this very context we may refer to Ext. M-4 also which is office order dated 22-11-82. By this order the employment of the concerned workmen was discontinued. The date of these orders may be relevant Ext. M-2 and M-3 were the orders passed sometimes in September/October, 1982 whereby Ext. M-4 is the order dated 22-11-82. This means the workmen were discontinued after about 2 months of their employment and the ground taken for their discontinuance was that a number of complaints had been received by the management to the effect that these persons were not the genuine and they should not have been provided employment in accordance with the settlement dated 5-2-81 and that they were impersonators/imposters. It further said that on checking relevant papers there were reasons to believe that the complaints had substance. It was found that there were

persons who were so young that they may not have been in the employment of Nishitpur Colliery in the year 1965. Accordingly the appointment orders were cancelled and employment discontinued. The question is as to what was these complainants and who were the complainants. Whether real man ever appeared or not. All these are very burning question which do not seem to have been answered by the order (Ext. M-4). It is further said that they were so young that the possibility of their being employment in the year 1965 cannot be normally believed. Certainly this aspect of the matter is of much concern. Supposing that they got employment in the year 1965 at the minimum age of 18 years then in that situation each workman was supported to have reached the minimum age of 45 years by the end of 1992. Any workman lesser than 45 years definitely will be imposter and the management will be justified in refusing employment to those persons. At this stage reference may again be made to Ext. W-2 and W-3, Paras 2 and 3 states as follows :—

Para 2 of Ext. W-2

"Their bonafide has been duly certified by the committee members, JMS Branch Secretary and has the clearance of the Headquarters, vigilance and the Police authority of individual Police station."

Para 3 of Ext. W-3

"They have also submitted the affidavit made before the Court and subsequently necessary undertaking has been obtained from the individual worker at Sijua Area."

9. From the provision aforesaid it is crystal clear that all the necessary verifications about the identity of the concerned workmen had already been done so much so the clearance of the headquarters and the vigilance and the Police authorities of the individual Police station was also given and in that situation there could have been hardly any scope of impersonation. MW-1 Shri S. P. Singh stated that they received an order from the Area General Manager that the concerned workmen should be allowed to resume their duties temporarily within 60 days provided they establish their identity during this period. However, in the very opening lines of the cross-examination he admitted that no letter was issued either to the workmen or the union leader that they will have to establish the identity of the individual concerned workmen within 60 days time. This is suggestive of the fact that the concerned workmen were most probably kept in the dark and they had no knowledge that they themselves will have to establish their identity. Moreover no such letter has been brought on the record. It may be worth noting that the acceptance of any such letter and the direction contained therein cannot be given much consideration for the reasons that in the memorandum of settlement there was clear stipulation in very unambiguous term that the management shall be at liberty to satisfy itself as to the correct identity of the concerned workmen before offering employment. There was no clause to the effect the concerned workmen will have to establish their identity. It was for the management and the management alone to establish the correct identity and the same had been spell out in the office order (Ext. W-2 and W-3). WW-1 Shri P. Ila has claimed himself as the President of the Mines Mazdoor Union. His position as President was not challenged in the cross-examination although the witness was examined in November, 1989. The witness supported the claims of the concerned workmen. According to him the concerned workmen were suddenly stopped without issuing any reason. He stated that there was no complaint against any of the concerned workmen. Through the office order Ext. M-4 the employment of the concerned workmen was to be discontinued with immediate effect. It was stated in the order portion that it was therefore considered necessary to make full investigation into the matter. The witness (WW-1) stated that there was no enquiry or investigation after the order dated 22-11-82 (Ext. M-4).

10. I have examined various aspect of the case and I am of the view that the claim of the concerned workmen for their employment seems to be genuine although their identity has already been established but the management had evidence that some youngsters have crept into as a result where of the award could not have been implemented. Under clause (viii) of the memorandum of settlement (Ext. M-1)

there is a clear stipulation that each workmen will be required to face medical board for determination of their age. Thus the concerned workmen are liable for their re-employment subject to their physical test by the medical board. If any of the concerned workmen found below 45 years of age will be deemed to be an imposter and such persons will not be entitled for any employment. The management is thus directed to give employment to the concerned workmen and to implement the Award as per direction given above within 2 months from the date of the publication of the Award. In the circumstances of the case I do not propose to give any back wages.

B. RAM, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 1992

का. आ. 36.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, कतरास सैन्ट्रल हॉस्पिटल के प्रबन्धन के सम्बन्ध निराकरण और उनके कर्मचारों के बीच, अनुवाद में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, (स. 1), अनुवाद के संघर्ष का प्रकाशन करती है, जो केन्द्रीय सरकार को 1-12-92 को प्राप्त हुआ था।

[संख्या एन-20012/90/90-आई आर (कोल-I)]

हरेश गोड़, डेस्क अधिकारी

New Delhi, the 7th December, 1992

S.O. 36.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Katras Central Hospital and their workmen, which was received by the Central Government on 4-12-1992.

[No. L-20012/90/90-IR (Coal-I)]

HARISH GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 268 of 1990

PARTIES :

Employers in relation to the management of Katras Central Hospital.

AND

Their Workmen

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri S. N. Sinha Advocate.

For the Workmen—Shri B. K. Ghosh, Member Executive Committee, Santa Mazdoor Sangh.

STATE : Bihar

INDUSTRY : Coal

Dated, the 23rd November, 1992

AWARD

By Order No. L-20012/90/90-IR (Coal I) dated, the 17th October, 1992, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the Management of Katras Central Hospital in Area No. IV of B.C.C. Ltd. is justified in superannuating Shri Dudhnath Ram, ex-War boy w.e.f. 1-9-1988 is justified? If not, to what relief the workman is entitled?"

2. The case of the management of Katras Central Hospital of Katras Area of M/s. B.C.C. Ltd., as appearing in the written statement, briefly stated, is as follows :

Dudhnath Ram, the concerned workman, was working as Ward Boy in Central Hospital of Katras Area of the management. Prior to that he was an employee of erstwhile Coal Mines Welfare Organisation as Ward Boy of the Hospital. Coal Mines Welfare Organisation merged with M/s. B.C.C. Ltd./C.M.L. on 1-3-1983. He opted for the service rule of M/s. B.C.C. Ltd. with effect from 1-3-83. His date of birth at the time of his appointment as recorded in the Service Book was 1928, when he joined the service in 1952. His date of birth was changed to 26-8-1933 by the then Secretary to the Medical Superintendent, Central Hospital on the basis of Horoscope produced by him in 1970 i.e. after the lapse of about 18 years. As per General Financial Rules of the Government, the actual date of birth as determined under Rule 80 shall be recorded in the history of Service Book and once recorded, it cannot be altered except in the case of clerical error without previous order of a Department of Central Government or an Administrator. The Head of the Department is authorised to exercise the power delegated to the department of the Central Government and the Administrator in the case of Non-Gazetted Government servant under their control. Rule 56(M) of F.R. envisage an alteration of the date of birth of a Government servant can be made with the sanction of the Ministry or Department of the Central Government. A request in this regard shall be made within five years of the entry in the Government service. The concerned workman requested for change in the date of birth after 18 years of his service in the Government of India in 1970. The Secretary to the Medical Superintendent who made change in his date of birth was not competent authority to make any change except the C.M.W.O. Commissioner as per rule. When the whole fact was brought to the notice of the competent authority, a notesheet to this effect was initiated by Shri A. S. Singh, Special Officer (W). Then the present competent authority, Director (Personnel) who agreed with the note of Shri A. S. Singh that Horoscope could not be accepted after 18 years of his appointment. Accordingly, the concerned workman was rightly superannuated from service with effect from 1-9-1988 after attaining the age of 60 years. The action of the management in superannuating the concerned workman is just and proper.

3. The case of the concerned workman as appearing in the written statement submitted on his behalf by the sponsoring union, Janta Mazdoor Sangh, briefly stated, is as follows :

The concerned workman was an employee of erstwhile employer as Ward Boy from 1952. In March, 1970 his date of birth was ascertained as 26-8-1933 and his service roll was rectified by the competent authority in the Coal Mines Labour Welfare Organisation. At the time of take over of the Coal Mines Labour Welfare Organisation by M/s. B.C.C. Ltd. with effect from 1-3-1983 the service of the concerned workman was taken over by M/s. B.C.C. Ltd. On the basis of service records maintained by Coal Mines Labour Welfare Organisation his date of birth was accepted/recorded by M/s. B.C.C. Ltd. as 26-8-1933. A Service Excerpt issued by the management of M/s. B.C.C. Ltd. in June, 1987 incorporating the essential information including his date of birth. His date of birth was recorded as 26-8-1933 in his Service Excerpt and he put his signature in endorsement of the entries. Contrary to the above document, the management of Central Hospital Area No. IV (Katras) of M/s. B.C.C. Ltd. informed him that he stood superannuated with effect from 1-9-88. The action of the management in superannuating him from service with effect from 1-9-88 he held to be unjustified and that he is entitled to continue in service till he reaches the age of superannuation with all consequential benefits.

4. In rejoinder to the written statement of the sponsoring union, the management has stated that the concerned workman requested for correction of his date of birth after serving for 18 years in Government service and that the correction was done by the Secretary to the Superintendent, Central Hospital on the basis of Horoscope. The Secretary to the Supdt. was not competent to do such correction. The Secretary to the Superintendent had no authority to make any change in his date of birth and so the change effected by him in his date of birth as 26-8-33 cannot be accepted. The Service Excerpt issued by the management of M/s. BCCL in 1987 cannot be considered to be correct document so far as the date of birth of the concerned workman is concerned. The action of the management in superannuating the concerned workman is justified.

5. In rejoinder to the written statement of the management, the union has stated that the concerned workman opted for M/s. B.C.C.L. Service Conditions at the time of take over. It has been denied that there was any Service Book at the C.M.L.W.O. regarding the concerned workman. There has been no violation of any Government rule in effecting the change of date of birth of the concerned workman. The Secretary was competent to issue Service Roll after satisfying himself to the correctness of the entries made therein. The present authorities of M/s. B.C.C. Ltd. are not competent to interfere with the matter which had been decided by the erstwhile CMLWO authorities. Superannuation of the concerned workman with effect from 1-9-88 is not justified.

6. The management, in order to justify its action, has examined Adva Sharan Singh presently posted to Koyla Division, Head Quarter of M/s. B.C.C. Ltd. as MW-1 and had in evidence a number of documents which have been marked Exts. M-1 to M-4.

On the other hand, neither the concerned workman nor the sponsoring union has laid any evidence, either oral or documentary.

7. The pleadings of the parties arrived and the evidence on record disclose that Dudhnath Ram joined the service of Coal Mines Labour Welfare Organisation on 28-10-1952 and was posted to Central Hospital, Dhanbad as Ward and Kitchen Servant on temporary basis. Admittedly, he was confirmed in service with effect from 24-11-1954 and transferred to Central Hospital, Katras with effect from 30-7-1976.

Coal Mines Labour Welfare Organisation was purely a Government of India Organisation.

This Organisation was running several hospitals including the Central Hospitals at Dhanbad, Katras, Baghmara, Bhuli and Tisra. These hospitals run by Coal Mines Labour Welfare Organisation were merged with M/s. B.C.C. Ltd. with effect from 1-3-1983.

Undeniably the concerned workman was Class IV Staff and opted for M/s. B.C.C. Ltd. Service Rule with effect from 1-3-1983.

The Service Book of the concerned workman was not prepared at the time of his joining the service. It was prepared on 20-3-70 (Ext. M-1) as the evidence of MW-1 Adva Sharan Singh and first page of Service Book disclose. It appears from the Service Roll that his year of birth was recorded as 1928. The pleading of the management discloses that in 1970 his date of birth was changed to 26-8-1933 on the basis of a Horoscope produced by the concerned workman by the then Secretary to the Superintendent of the Central Hospital, evidently of Dhanbad who according to the management, was not competent to change the date of birth of the concerned workman. In support of this contention the management has relied on Rule 79(2) of General Financial Rules which reads as follows :

"The actual date or the assumed date determined under Rule 80 shall be recorded in the history of service, service book, or any other record that may be kept in respect of the Government Servant's service under Government and, once recorded, it cannot be altered, except in the case of a clerical error, without the previous orders of a Department of the Central Government or an Administrator.

Note 1—Heads of Departments are authorised to exercise the powers delegated to a Department of the Central Government and as Administrator under

Rule 79 in the case of non-granted Government servants under their control."

The management has also relied on the Note 5 of Rule 56 of Fundamental Rules which reads as follows :

"Note 5—The date on which a Government servant attains the age of fifty-eight years or sixty years, as the case may be, shall be determined with reference to the date of birth declared by the Government servant at the time of appointment and accepted by the appropriate authority on production, as far as possible, of confirmatory documentary evidence such as High School or Higher Secondary or Secondary School Certificate or extracts from Birth Register. The date of birth so declared by the Government servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this note. An alteration of date of birth of a Government servant can be made, with the sanction of a Ministry or Department of the Central Government, or the Comptroller and Auditor-General in regard to persons serving in the Indian Audit and Accounts Department, or an administrator of a Union Territory under which the Government servant is serving, if—

- (a) a request in this regard is made within five years of his entry into Government service ;
- (b) it is clearly established that a genuine bona fide mistake has occurred ; and
- (c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service."

8 Admittedly, the Secretary to the Medical Superintendence had no power to change the date of birth of the concerned workman. MW-1 Adya Sharan Singh has stated that the change of date of birth of the concerned workman was approved by the Medical Superintendent. Even so, he had no power to effect such change. According to Shri Singh Coal Mines Labour Welfare Commissioner was the competent authority to approve of the correction/change of date of birth. In the present case that has not been done. Note 5 to Rule 56 of Fundamental Rules envisages that an alteration of date of birth of a Government servant can be made if a request in this regard is made within five years of the entry into Government service. Evidently that has not been done in the present case. But certain stark facts cannot be ignored and overlooked. One such is that the Service Book of the concerned workman was prepared as late as on 20-3-70 while he got into employment way back on 28-10-52. Then again, there is no hard evidence to indicate the basis for recording the year of birth of the concerned workman as 1928 in the Service Roll. The pleading of the sponsoring union discloses that Service Excerpt was issued by the management of M/s. BCCCL in 1987 to the concerned workman incorporating essential information wherein his date of birth was mentioned as 26-8-33.

While processing the pensionary benefit of the concerned workman, Shri Singh observed the irregularities made in changing the date of birth of the concerned workman (Ext. M-3). He reported the matter to the higher authority and ultimately the Director of Personnel, by note dated 9-8-88 (Ext. M-3/1), was of opinion that horoscope could count he accepted after 18 years of the date of appointment of the concerned workman and that the change was not also approved by the competent authority. The Director passed order for immediate retirement of the concerned workman from service. In other words, the Director rescinded the earlier order with regard to the date of birth of the concerned workman and restored his original year of birth. Suggestion was given to the Director for assessment of the age of the concerned workman by Medical Board. It appears that he ignored that suggestion.

9. It must be pointed out that Service Excerpt provided by M/s. B.C.C. Ltd. to the concerned workman discloses

his date of birth as 28-8-33. In my view, the Director was not justified in passing peremptory order for retirement of the concerned workman without giving him an opportunity of being heard. In my considered opinion in the context of facts and circumstances of the case the management should have directed the concerned workman to appear before the Medical Board for assessment of his age. Actually a suggestion to that effect was given but that was ignored by the higher echelon of the management. This being so, I consider that the action of the management in superannuating the concerned workman from service with effect from 1-9-88 is not justified. The management is directed to assess the age of the concerned workman by Apex Medical Board within one month from the date of publication of the award and to take such appropriate action thereafter as it may deem fit and proper.

10. Accordingly, the following award is rendered—

The management of Katras Central Hospital in Area No. IV of M/s. B.C.C. Ltd. is not justified in superannuating the concerned workman from service with effect from 1-9-1988. The management is directed to have the age of the concerned workman assessed by the Apex Medical Board within one month from the date of publication of the award and to take such suitable action thereafter as it may deem fit and proper.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

नई दिल्ली, 14 दिसम्बर, 1992

का. भा. 37.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, आर. वयु. एस एंड ई. कम्पनी, राजमहल के प्रबन्धन के संबंध में निम्नलिखित औद्योगिक विवाद में और उनके कर्मचारियों के बीच, अनुवध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचपर को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-12-92 को प्राप्त हुआ था।

[सं. एन. 20012/71/90-आई आर (कोल-1)]

एच. सं. गोड़, डेस्क अधिकारी

New Delhi, the 14th December, 1992

S.O. 37.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of R.Q.S. & E. Co. Rajmahal and their workmen which was received by the Central Government on 8-12-92.

[No. 20012/71/90-IR(Coal-1)]

HARISH GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 232 of 1990

PARTIES :

Employers in relation to the management of M/s. R.O.S. & E. Company, Rajmahal.

AND

Their Workmen.

PRESENT :

Shri S. K. Mittra, Presiding Officer

APPEARANCES :

For the Employers : None.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Stone Quarry.

Dated, the 25th November, 1992

AWARD

By Order No. L-20012/71/90-I.R. (Coal-I), dated, the 4th October, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section 1 and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the demand of Khadan Mazdoor Sangh for conversion of Machine Operator/attendant employed in Mangalhat Mines of M/s. S.R.O.S. & F. Company under their contractor M/s. Shree Minerals from daily rate to monthly rate is justified ? If so, to what relief the workmen are entitled ?"

2. The order of reference was received in the office of the Tribunal on 8-10-1990. After receipt of the order of reference, notice was issued to the President, Khadan Mazdoor Sangh, P. O. Rajmahal, Dist. Sahabganj, Bihar. Thereafter several adjournments were given to the union to file written statement. In spite of that no step has been taken by the union to file written statement on behalf of the workmen and in the circumstances, I am constrained to pass 'no dispute' award in the present case.

3. Accordingly, I pass 'no dispute' award in this case. This is my award.

S.K. MITRA, Presiding Officer.

नई दिल्ली, 14 दिसम्बर, 1992

का. शा. 33 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सैन्य वस्त्रोद्योग बरिष्ठ (कोक) इण्डस्ट्रीज, के प्रबंधन के सबूद्ध नियंत्रण और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक शक्ति, (स. 1), अनुबंध के पक्ष को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-92 को प्राप्त हुआ था।

[सं. एन-20012/408/91-आई आर (कोक-I)]

एन. सी. गौर, डेस्क अधिकारी

New Delhi, the 14th December, 1992

S.O. 38.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bajrangbali Briquette (Coke) industry and their workmen which was received by Central Government on 8-12-92.

[No. L-20012/408/91-IR (C-I)]

HARISH GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference under sec. 10(1)(d) of I.D. Act, 1947

Reference No. 7 of 1992

PARTIES :

Employers in relation to the management of M/s. Bajrangbali Briquette (Coke) Industries,

3087 GI/92-4

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers : None.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Coke.

Dated, the 30th November, 1992

AWARD

By Order No. L-20012/408/91-I.R. (C-I), dated 'nil' the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. Bajrangbali Briquette (Coke) Industries in terminating the service of Sh. Biswanath Karmakar, Fitter Mistry w.e.f. 12-8-90 is justified ? If not, to what relief the workman is entitled ?"

2. The order of reference was received in the office of the Tribunal on 24-1-92. After receipt of the order of reference, notice was sent to the Secretary, Chhotanagpur Laghu Udyog Karamchari Sangh, Bakshuma, P.O. Govindpur, Dhanbad. Thereafter several adjournments were given to the union to file written statement on behalf of the workmen. In spite of that no step has been taken by the union. In the circumstances, I am constrained to pass 'no dispute' award in the present case.

3. Accordingly, I pass 'no dispute' award in the present case.

In the circumstances of the case, I award no cost. This is my award.

S. K. MITRA, Presiding Officer.

नई दिल्ली, 7 दिसम्बर, 1992

का. शा. 33 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेन कोक के प्रबंधन के सबूद्ध नियंत्रण और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक शक्ति, (स. 1), अनुबंध के पक्ष को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-12-92 को प्राप्त हुआ था।

[सं. एन-20012/73/92-आई आर (सी-I)]

एन. सी. गौर, डेस्क अधिकारी

New Delhi, the 7th December, 1992

S.O. 39.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Tamil Nadu Madras as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of State Bank of India and their workmen which was received by the Central Government on the 7th December, 1992.

[No. L-20012/73/92-IR (P-III)]

S. K. JAIN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU,
MADRAS

Friday, the 30th October, 1992

PRESENT :

Thiru M. Gopalaswamy, B.Sc., B.L., Industrial Tribunal.
Industrial Dispute No. 51 of 1989

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of State Bank of India, Madras-1)

BETWEEN

The workman represented by
The General Secretary,
State Bank Employee's Union,
137, Angappa Naicken Street
Madras-600001.

AND

The Chief General Manager,
State Bank of India,
Circle Top House,
21, Rajaji Road,
Madras-600001.

REFERENCE :

Order No. 12012/73/89-I.R. B(III) Ministry of Labour,
dated, 23rd May, 1989, Government of India.

This dispute coming on for final hearing on Friday the 25th day of September, 1992 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru V. S. Ekambaram, Authorised Representative for the workman and of Tvl. T. S. Gopalan, P. Ibrahim Kalitullah & S. Raviadrnan, Advocates appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following

AWARD

This dispute between the workmen and the management of State Bank of India, Madras-1 arises out of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its order No. L-12012/73/89-I.R. (B.III) dated 23rd May, 1989 of the Ministry of Labour, for adjudication of the following issue :

"Whether the management of State Bank of India, Madras is justified in inflicting the punishment of reduction of pay to next lower stage upto a period of one year on the basis of the findings of a domestic enquiry conducted against Sh. C. R. Govindan, Head Clerk of Tirupattur Branch? If not, to what relief, the concerned employee is entitled to?"

The Petitioner-Union alleges in the claim statement as follows : Petitioner-Union is raising this dispute under reference relating to the punishment of reducing the pay to one stage below, to be effective for one year, imposed on the Head Clerk Thiru Govindan while working under the Respondent in the Tirupattur Branch. In the charge memo issued to Thiru Govindan on 27th January, 1986 it was alleged that the charge sheeted employee Thiru Govindan refused to hand over the Day Book to Mr. Santhanakrishnan, Officer (IMG) who needed it for updating Savings Bank Progressive Book at about 10.00 a.m. on 3rd December, 1985, that just after an impatient Thiru Santhanakrishnan took the Day Book from the table of Thiru Govindan, the latter went up to the table of Thiru Santhana Krishnan, that he violently snatched away the book from the hands of Thiru Santhanakrishnan and in that course, Thiru Govindan hit Thiru Santhanakrishnan with the Day Book resulting in bleeding injury in the lips of Thiru Santhanakrishnan and that Govindan shouted and created a scene by uttering the words (words in Regional Language) and thus the charge sheeted employee Govindan had committed misconduct punishable under paragraphs 521(4)(c) (e) m(g) of the Sastri Award read with paragraph 18, 28 of the Dessi Award. Thiru Govindan gave a reply to the charge memo. In the domestic enquiry that followed, the management

examined six witnesses to prove the charge. The domestic enquiry officer gave his findings on 18th April, 1987 to the effect that the act of causing injury to the lips of Thiru Santhanakrishnan by hitting with the Day Book is not proved and that the act of threatening Santhanakrishnan by uttering intimidating words is proved. Thereupon, the disciplinary authority issued a second show cause notice on 18th May, 1987 proposing the punishment and stating that the charge of gross misconduct in terms of para 521(4)(c) of Sastri Award was proved. The workman gave his explanation against the findings and the proposed punishment of reducing pay to the next lower stage to be effective for two years. The disciplinary authority confirmed the finding and imposed the penalty as earlier proposed. In an appeal filed by Thiru Govindan, the Appellate Authority confirmed the findings and modified the punishment into reduction of pay to the next lower stage to be effective for one year only. Both the disciplinary Authority and the Appellate authority have gone wrong in finding that the Petitioner is guilty of threatening Thiru Santhanakrishnan by uttering the words words in Regional Language. Such a finding is irregular and illegal because there was no separate charge on the basis of the petitioner using the words "(words in Regional Language)" in a threatening manner. The proved misconduct of utterance of certain words is not a misconduct at all. Such a finding is perverse. In any event, the punishment is unjustified and too harsh and deserves to be set aside.

The Respondent states in the counter statement as follows: The petitioner Union has not been duly authorised to raise the dispute on behalf of Thiru Govindan. The concerned workman Govindan working as Head Clerk has refused to part with the Day Book on 3rd December, 1985 when demanded by Thiru Santhanakrishnan for updating Savings Bank Progressive Book under the pretext that he himself wanted it to remain with him longer since he has not yet checked the Day Book. So he refused to hand over it. Even after Santhanakrishnan, Officer (IMG) went to the table of Thiru Govindan and requested that the book might be given to him. Thiru Govindan refused to oblige. Finally, after Thiru Santhanakrishnan took it away and placed it on his own table, the concerned workman went to the place of Santhanakrishnan and tried to take away the Savings Bank Day Book. When Santhanakrishnan tightened his grip over the day book, as a mark of disapproval, the concerned workman snatched the book away from Thiru Santhanakrishnan's hands and in that process, the concerned workman beat Santhanakrishnan with the Day Book causing bleeding injuries to the lips of Thiru Santhanakrishnan. For these acts, he was placed under suspension on 6th December, 1985. A charge memo was issued to him on 27th January, 1986 for gross misconduct under paragraphs 521(4)(c), (e) m(g) of the Sastri Award read with paragraph 18, 28 of the Dessi Award. The concerned workman's explanation being not satisfactory, a domestic enquiry was held. Six witnesses were examined to prove the charges. The workman examined himself and another witness. The domestic enquiry officer found that part of the charge, namely, uttering threatening words towards Thiru Santhanakrishnan was proved while the other one of causing injury to the lips by hitting with the Day Book was not proved. Later, the disciplinary authority issued a second show cause notice by communicating the proposed punishment. A personal hearing was also given. The disciplinary authority confirmed the proposed punishment of reduction of pay to next lower stage upto a period of two years. On an appeal preferred by the workman to the Deputy General Manager, he passed an order dated 10th September, 1987 upholding the finding, but modifying the punishment as reduction of pay to the next lower stage to be effective for one year. The finding as well as the punishment are perfectly lawful and justified. The evidence amply prove that there was a wordy altercation between Thiru Govindan and Thiru Santhanakrishnan, during which Thiru Govindan uttered threatening words in Tamil which inter alia meant that if his lips were alright the situation and consequence would have been totally different. There is no merit in the claim, which is liable to be dismissed.

The points arising for consideration are as follows :

(1) Whether the finding approved by the Disciplinary Authority and later confirmed by the Appellate Authority is perverse?

(2) Whether the punishment is liable to be modified

The concerned workman Thiru Govindan on whose behalf the Petitioner-Union has brought forth this dispute was the Head Clerk of the Tirupattur Branch of the Respondent. The

victim Thiru Santhanakrishnan was working as Officer (JMG) in the same branch on the crucial date 3-12-85. No oral evidence was let in before this Tribunal. Exs. M-1 to M-6 have been marked. In ex. M-1 charge memo, the acts of misconduct imputed to Thiru Govindan, Head Clerk have been fully described. The entire incident giving rise to the charge of gross misconduct punishable under paragraphs 521 (4)(c), (e) m(g) of the Sastri Award read with paragraph 18, 28 of the Desai Award has occurred in relation to the using of Savings Bank Day book. The charge-sheeted workman Thiru Govindan was entitled to use the day book for checking the entries and the Officer Thiru Santhanakrishnan was also equally entitled to use it for updating S. B. Progressive book.

The domestic enquiry proceedings are marked as Ex. M-2. The first witness put up by the management before the domestic enquiry officer is the victim Thiru Santhanakrishnan who is said to have received bleeding injury in his nps when the Day book was pulled out forcibly by charge sheeted employee Thiru Govindan. P.W. 1 Thiru Santhanakrishnan has testified to the entire sequence of events upto the first aid treatment given by Staff nurse for the bleeding injury caused to him. P.W. 3. Muniandi Accountant also supported the version of the victim PW1. Thiru Santhanakrishnan and he himself advised Govindan to go to his seat. However, PW.3. did not actually see the Day book being pulled by Govindan or its hitting the victim. He has asserted that after Govindan went to the table of victim there was wordy exchange between the two for one or two minutes. The most important witness PW.4. Thiru Sethumadhavan has described the events which happened in the punking hall. It is this witness who took the injured PW.1. to the nearest hospital of Dr. Jagadeesan who declined to give medical treatment on the ground that it being a medical legal case, the patient should be brought to him through Police. P.W. 4 did go to the doctor only after obtaining permission from the Branch Manager and he further deposed that finally a police complaint was given regarding this incident by the Branch Manager. This witness has added that when Govindan was at the table of Thiru Santhanakrishnan, there was a struggle between the two with the Day book being pulled by Thiru Govindan from the hands of Santhanakrishnan who resisted it. PW.5 Sivagurunathan, Clerk of the Branch has narrated about the entire incident and in particular about the angry mood of Thiru Govindan, his going upto the table of Thiru Santhanakrishnan and the struggle that happened between the two about the Day book. All these witnesses have deposed in clear terms that the charge-sheeted employee Thiru Govindan swore angrily" words in Regional Language). Hence I hold that the evidence given before the domestic enquiry officer convincingly proves the wordy quarrel coupled with the pulling of the Day book and utterance of threatening words by Govindan towards PW 1, Santhanakrishnan. I do not see any error of appreciation of evidence in the findings given by the Disciplinary Authority or Appellate Authority when the Day book has been taken away by Santhanakrishnan to his table even if it is assumed that Santhanakrishnan's act is bad enough, the charge-sheeted employee should have acted within the bounds of decency and discipline, by taking the matter to the Branch Manager. On the other hand Govindan, C.S.E. in a fit of bad temper has tried to find a solution by himself picking up a quarrel with Santhanakrishnan and by snatching the Day book from the hands of Santhanakrishnan. The utterance of threatening words is one of a series of acts, all of which separately and collectively constitute misconduct punishable under paragraph 521 (4) (c), (e) m(g) of the Sastri Award read with paragraphs 18 and 28 of the Desai Award. Therefore, even on the legal plane, the finding is not defective. About the quantum of punishment, I am not convinced with the Petitioner's argument that it is in any manner excessive or harsh or unjust. Therefore, there is no ground for interfering with and modifying the punishment into a still lesser one. These points are answered accordingly.

In the result, an award is passed by dismissing the claim of the Petitioner-Union. No costs.

Dated, this 30th day of October, 1992.

Sd/- Illegible,
Industrial Tribunal

WITNESSES EXAMINED

For both sides : None

DOCUMENTS MARKED

For workman : Nil

For Management :

- Ex. M.1, 27-1-86.—Charge sheet issued to Thiru C. R. Govindan (Xerox copy).
- Ex. M.2.—Proceedings of the Enquiry Officer (Xerox copy).
- Ex. M.3. 18-4-87.—Findings of the Enquiry Officer (Xerox copy).
- Ex. M.4. 18-5-87.—Letter to Thiru C. R. Govindan from the Disciplinary Authority regarding personal hearing (Xerox copy).
- Ex. M.5. 13-7-87.—Order of punishment issued to Thiru C. R. Govindan (Xerox copy).
- Ex. M.6. 10-9-87.—Final order of punishment issued to Thiru C. R. Govindan (Xerox copy).

नई दिल्ली, 9 दिसम्बर, 1992

का. भा. 40.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रसरण में, केन्द्रीय सरकार, लार्ड कृष्णा बैंक लिमिटेड के प्रबन्धकों के संबंध में जो उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, कोल्लम को पत्रपत्र को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-12-82 को प्राप्त हुआ था।

[म. एल. 12012/154/91-आई एर (न-III)]

एस. के. जैन, डेस्क अधिकारी

New Delhi, the 9th December, 1992

S.O. 40.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kollam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Lord Krishna Bank Limited and their workmen, which was received by the Central Government on the 9-12-82.

[No. L-12012/154/91-IR(B-III)]

S. K. JAIN, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL,
KOLLAM (INDUSTRIAL TRIBUNAL, KOLLAM)

Dated this the 4th day of December, 1992

PRESENT :

Sri C. N. SASIDHARAN, Industrial Tribunal.

IN

INDUSTRIAL DISPUTE NO. 23/91

BETWEEN

The Chairman, Lord Krishna Bank Ltd., Central Office,
Kodungallur-680664.

(By Sri. Shahid, Advocate, Kollam)

AND

The Central Secretary, Lord Krishna Bank Employees
Union, Central Office, Nair Samajam Building,
Chendamangalam-683512.

(By Sri. H. B. Shenoy, Advocate, Cochin)

AWARD

The Government of India as per Order No. L-12012/154/91-IR.B.III dated 11-6-1991, has referred this industrial dispute to this Tribunal.

The issue for adjudication is the following :

“Whether the action on the part of the management of Lord Krishna Bank Ltd, in terminating/denying Shri P. L. Martin employment as a Peon beyond 13-11-89 is fair and justifiable? If not, to what relief the said workman is entitled to?”

2. In pursuance to notices issued from this Tribunal, both sides entered appearance and filed statements advancing their respective contentions. Thereafter, while the case was pending for production of documents, the management filed a memo of compromise and also true copy of the memorandum of settlement entered into between the management and the union on 30-8-1992. On that day the union and counsel remained absent. Accordingly the case was posted to 24-9-1992 on that day the union has filed a petition calling upon management to produce some documents and the case was adjourned to 22-10-1992. On that day the union and counsel remained absent. No adjournment was also sought on behalf of union. However, the case was adjourned to 13-11-1992 for production of documents by the management. When the case was called on 18-11-1992 the union and counsel again remained absent without any reason whatsoever. No adjournment was also sought and the union was set exparte.

3. The learned counsel for management submitted that the matter has already been settled and there was no necessity to produce any documents. Since the management has already filed a memo of compromise alongwith a copy of the memorandum of settlement and the union and its counsel remained absent consistently, it can only be presumed that the matter has been settled and no industrial dispute subsists between the parties requiring adjudication.

4. In the result, an award is passed holding that no industrial dispute subsists between the parties requiring adjudication in this reference.

C. N. SASIDHRAN, Industrial Tribunal

नई दिल्ली, 9 दिसम्बर, 1992

का. घा. 41.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निम्नलिखित बैंक की एल सी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, तमिलनाडु, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-12-92 को प्राप्त हुआ था।

[संख्या एल-12012/112/86-डी-IV (ए)]

एस. के. जैन, ईस्क अधिकारी

New Delhi, the 9th December, 1992

S.O. 41.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Tamil Nadu Madras, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Grindlays Bank P.L.C. and their workmen, which was received by the Central Government on the 9-12-92.

[No. L-12012/112/86-D-IV(A)]

S. K. JAIN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU
MADRAS

Wednesday, the 25th day of November, 1992

PRESENT:

Thiru M. Gopalaswamy, B.Sc., B. L.,

Industrial Tribunal.

Industrial Dispute No. 108 of 1987

In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947, between the workman and the management of Grindlays Bank, Madras-1).

BETWEEN

Thiru R. Raju,

No. 11, Anjaneya Nagar,

5th Lane, Royapuram,

Madras-600014.

AND

The Chief Manager (Operations),

Grindlays Bank, Grindlays Bank Centre,

19, Rajaji Salai, P.B. 297,

Madras-600001.

REFERENCE:

Order No. L- 12012/112/86-D IV(A), dated 8-9-1987 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Wednesday, the 8th day of July, 1992 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiruvalargal T. Penn Walter and Panneerselvam, Authorised Representatives for the workman and of Thiru Gerroigian P. Moros for King & Patridge, Advocates appearing for the management, and this dispute having stood over till this day for consideration, this tribunal made the following award.

AWARD

This dispute between the workman and the management of Grindlays Bank, P.L.C., Madras arises out of a reference under section 10(1)(d) of the Industrial Disputes Acts, 1947 by the Government of India in its order No. L.12012/112/86-D.IV(A), dated 8-9-87 of the Ministry of Labour, for adjudication of the following issue :

“Whether the action of the management of Grindlays Bank P.L.C. Madras in terminating the services of the workman Shri R. Raju, part-time sweeper-cum-cleaner on expiry of the probation with effect from 31-3-81 is justified ? If not, to what relief the workman is entitled to?”

2. The Petitioner-workman alleges as follows :

He was working as Sweeper in the Branch at Madras, Mount Road of Respondent Bank from 1-10-80 as a probationer. All of a sudden he was issued an order dated 31-3-81 intimating that he was terminated from service with effect from 31-3-81 A.N. A shocked petitioner filed petition under the Shops and Establishments Act requesting reinstatement. However, due to non appearance, the petition came to be dismissed. The said dismissal by the authority under the Shops and Establishments Act was not based on merits of the case. The Petitioner is unable to secure employment under any other employer. Termination of his service by the Respondent is illegal, unjust and improper and the same is liable to set aside. A suitable award may be passed for reinstating the petitioner in service with back wages and other benefits.

(3) The Respondent-Grindlays Bank states as follows :—

The petitioner was working as part-time sweeper-cum-cleaner w.e.f 1-10-80 under the appointment order dt. 29-9-80. The

petitioner's job is cleaning and sweeping the premises besides doing incidental work. The petitioner has been discharging his duties negligently without commitment and dedications. Since his performance during the period of probation was not satisfactory, he was given a warning by the Respondent by a letter dated 31-1-81 that he should improve his work and give good performance. In spite of this letter, the Petitioner did not show any improvement and continued to work in an unsatisfactory manner. Therefore due to the poor and substandard work turned out by the Petitioner and in the absence of any sign of improvement, the Respondent was constrained to terminate the Petitioner's probation by issuing letter dt. 31-3-81 by paying Rs. 401-40 P. being one month's salary, instead of notice. Such termination of the petitioner's probationary service is lawful bona fide and according to contract of service. The petitioner who did not do his work faithfully and efficiently was justly terminated. According to Sasthri Award, Paragraph 522.(4), termination of the probationer by giving one month's notice or paying one month's pay is lawful. Hence the Petitioner has no case under the I.D. Act.

(4) POINT : For determination are as follows :—

1. Whether the termination of the Petitioner's service as a probationer w.e.f. 31-3-81 is lawful and just?

2. If not, to what relief the petitioner is entitled?

(5) POINTS 1 and 2 :

The petitioner-workman Raju examined himself as W.W.1. The Respondent did not adduce oral evidence. Exhibits W.1, M.1 to M.3 have been marked. The petitioner Raju has been appointed on a monthly wage of Rs. 413-26 in the post of Part-time Cleaner-cum-Sweeper by Exhibit M.1 order dt. 29-9-80. His daily work of sweeping and cleaning was not expected to exceed 5 hours, or alternatively it did not exceed 29 hours per week. The job includes sweeping the floor of premises including toilets and cleaning the premises, furnitures and fixtures and doing work incidental to such cleaning, under the directions of the Branch Manager. The Manager of the Bank after having found that the Petitioner's performance was of poor standard and perfunctory, issued a letter of warning Ex. M.2 dt. 31-1-81 i.e. at the end of the 3 months, from the commencement of Petitioner's service, informing that the Petitioner's work was unsatisfactory and poor that he did not take to his work dutifully, that his attendance was poor and that he was expected to improve his performance. Then at the end of another 3 months the Respondent's Officer has issued Ex. M.3 order dt. 31-3-81 stating that the Petitioner's probationary service is terminated as on 31-3-81 A.N. on the grounds that the Petitioner's work during the period of probation was unsatisfactory, in spite of a prior warning and that the management did not consider the Petitioner fit enough for being retained in service, namely for being confirmed in permanent service.

(6) The Petitioner W.W.1 has not succeeded in establishing the presence of malafides or lack of good faith or any other extraneous considerations and factors on the part of the Respondent's officials in taking the decision against the petitioner. The Petitioner being a probationer in the post of part-time sweeper, should have rendered satisfactory service by observing promptness, discipline and application of mind. When there is no bad motive attributed to the Respondent and much less proved, the Respondent's act of discharging the petitioner from Probationer's service or terminating such service cannot be viewed as unfair. The appointment of the petitioner as a probationer is under a contract of employment and hence by exercising the employer's option available under the terms of the contract employer is at liberty to hold that the probationary service of the workman is unsatisfactory and that the same is no longer required. Such termination cannot be construed as retrenchment as defined in Sect. 2(oo) of the Industrial Disputes Act. The Petitioner has also failed to present his case effectively before the authority under Tamilnadu Shops and Establishments Act.

(7) On considering all the facts and circumstances, I am of the view that the order of termination of the petitioner's probationary Service is just and lawful against which the petitioner can have no remedy. The points are answered accordingly.

(8) In the result, an award is passed, dismissing the claim. No costs.

Dated this 25th day of November, 1992.

THIRU M. GOPALASWAMY, Industrial Tribunal

List of Witness and Exhibits in I.D. 108/87

WITNESSES EXAMINED

For Workman

W.W.1. Thiru R. Raju.

For Management : None.

DOCUMENTS MARKED

For Workman

Ex. W.1, 3-12-84—Order of Appellate Authority (Dy. Commissioner of Labour (Appeals), Madras disallowing the Appeal filed by Petitioner-workman.

For Management

Ex. M.1 29-9-90—Letter from Management Bank to the Petitioner-workman appointing him as a part-time cleaner cum-sweeper w.e.f. 1-10-80. (xerox copy).

M.2 31-1-81—Letter from Management—Bank to Petitioner-workman informing that his performance as a sweeper on probation is not satisfactory. (xerox-copy).

M.3 31-3-81—Order of the Management Bank removing the services of petitioner-workman (xerox copy).

नई दिल्ली, 8 दिसम्बर, 1992

का. अ. 42.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में, केन्द्रीय सरकार सीतालपुर कोलियरी आफ मैरर्स ई सी लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, प्रनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचवट का प्रकाशित करती है जो केन्द्रीय सरकार को 7/12/92 को प्राप्त हुआ था।

[संख्या एल-22012/211/89-आई आर (मं- II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 8th December, 1992

S.O. 42.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sitalpur Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 7-12-92.

[No. L-22012/211/89-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, ASANSOL

Reference No. 3/90

PRESENT :

Shri N. K. Saha,
Presiding Officer

PARTIES :

Employers in relation to the Management of Sitalpur
Colliery of M/s. E.C. Ltd.

AND

Their Workman.

APPEARANCES :

For the Employers.—Sri P. K. Das, Advocate.

For the Workman.—Sri Mouoj Mukherjee, Advocate.

INDUSTRY : Coal.

STATE : West Bengal

Dated, the 25th November, 1992

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(211)/89-IR(C.II) dated 20-12-89/5-1-90.

SCHEDULE

"Whether the action of the Management of Sitalpur Colliery of M/s. E.C. Ltd., in denying employment to the dependent son of Late Churki Mejhian, Wagon Loader, is justified? If not, to what relief is the concerned workman is entitled?"

2. The case of the union in brief is that Late Churki Mejhian was a regular loader of Pure Sitalpur Colliery under Eastern Coalfields Ltd., Churki Mejhian died on 15-3-87 while in service. She had been suffering from T. B. and other diseases. According to the provisions of NCWA-III her adult son Bablu Majhi applied for employment before the management. Bablu Majhi is a able bodied person with sound health and average physique. He fulfils all the other conditions required for getting the employment. According to NCWA-III a dependant of the deceased employee is entitled to get employment if the employee dies while in service. But inspite of repeated requests the management did not give any employment to Bablu Majhi.

3. An industrial dispute was raised but the attempts of conciliation ended in failure. The matter was sent to the Ministry of Labour, Govt. of India and ultimately the dispute has been referred to this Tribunal for adjudication by the Ministry of Labour, Govt. of India.

4. The management has filed written statement contending inter-alia that Late Churki Mejhian was not a regular employee of the colliery. Churki Mejhian worked for some period as casual wagon loader. A dependant member of a casual worker is not entitled to get any employment under NCWA-III. Churki Mejhian did not qualify for regular employment by putting requisite consecutive attendance of 240 days in a year before her death. In 1983 she worked for 141 days, in 1984 she worked for 164 days, in 1985 she worked for 125 days and she did not work in 1986. Both NCWA-II & III only cover regular workers and not casual workers and the decision of J.B.C.C.I. dated 23-6-88 will substantiate the said contention. So the son of Late Churki Mejhian is not entitled to get any benefit in this Reference.

5. Admittedly Late Churki Mejhian worked in Pure Sitalpur Colliery and died on 15-3-87. It has been contended from the side of the union that she died on 15-3-87 while in service. It is the further claim of the union that

she was a permanent employee of the colliery. But the union has failed to adduce iota of evidence to substantiate its claim to show that Late Churki Mejhian was a permanent employee of the colliery. On the other hand the management has contended that Churki Mejhian worked in the colliery as casual wagon loader for 141 days in 1983, 164 days in 1984, 125 days in 1985 and she did not work in 1986. But she never worked for a consecutive period of 240 days, which confers the status of a permanent employee. The union called for the registers from the management to prove that she had worked for a consecutive period of 240 days. The management has produced the registers as called for by the union. But the union has failed to show from the registers that Churki Mejhian worked for a consecutive period of 240 days before her death at any time in the said colliery. So considering all the materials and the facts and circumstances I find that the union has failed to show that Churki Mejhian was a permanent employee of the Pure Sitalpur Colliery. I find that Churki Mejhian was a casual wagon loader of the said colliery and she did not put up any service to qualify herself as a permanent employee.

6. According to the provisions of NCWA-II & III a dependant member of a regular employee is entitled to get employment if such employee dies while in service and the decision of the J.B.C.C.I. dated 23-6-88 confirms the same. So as Churki Mejhian was not a permanent employee of the Eastern Coalfields Ltd., her son Bablu Majhi is not entitled to get any employment under the provisions of NCWA-III. Consequently I find that the action of the Churki Mejhian, Wagon Loader is justified.

7. In the result the concerned workman is not entitled to get any relief in this Reference.

This is my award.

N. K. SAHA, Presiding Officer.

नई दिल्ली, 8 दिसम्बर, 1992

का.पा. 43.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार फूड कॉर्पोरेशन ऑफ इंडिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकरण, नई दिल्ली के पंचपद को प्रकाशित करता है, जो केन्द्रीय सरकार को 7-12-92 को प्राप्त हुआ था।

[सं. एल-22012/224/एक/91-आई.पी.ए. (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 8th December, 1992

S.O. 43.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on 7-12-92.

[No. L-22012/224/F/91-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL,
NEW DELHI

I.D. No. 148/91

In the matter of dispute between :

Shri Palat Rai Singh, Regional Secretary of Bhartiya
Khadya Nigam Mazdoor Sangh, Mayapuri Depot,
New Delhi.

Versus

The District Manager, Food Corporation of India,
Mayapuri, New Delhi.

APPEARANCES :

None—for the workman.

Shri A. K. Raina—for Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012/224/F/91-IR(C.II) dated 26-11-91 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Food Corporation of India, New Delhi, in transferring Shri Palet Rai Singh, Regional Secretary of Bharatiya Khadya Nigam Mazdoor Sangh from Mayapuri Depot, New Delhi, to Main Depot, Allahabad (UP) in another Region is justified? If not, to what relief the workman is entitled to?"

2. The case was fixed today for filing of the claim by the workman but he did not appear inspite of having been either of the fact that the case was called many times. Since no one is present and no claim has been filed by the workman, I, therefore, held that there is no dispute exist between the parties. No dispute Award is, therefore, passed leaving the parties to bear their own costs.

12th October, 1992.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 8 दिसम्बर, 1992

का. घा 44 —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जगन्नाथ कोयली ग्राफ मैनेजमेंट एंड ई सी लि., के प्रबन्धकों के संबंध में निम्नलिखित विवादों और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के संघटन को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/12/92 को प्राप्त हुआ था।

[संख्या एल-22012/132/88-डी.-IV (बी)]

[राजा लाल, डेस्क अधिकारी]

New Delhi, the 8th December, 1992

S.O. 44.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Jagan Nath Colliery of M/s. S.E.C. Ltd. & their workmen, which was received by the Central Government on 7-12-92.

[No. L-22012/132/88-D-IV(B)]

RAJA LAL, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL : ORISSA : BHUBANESWAR

PRESENT:

Sri R. K. Dash, L.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 3 OF 1989 (CENTRAL)
DATED, BHUBANESWAR, THE 28TH OCTOBER, 1992.
BETWEEN:

The Management of Jagannath Colliery of M/s. South Eastern Coalfields Ltd., Talcher, Dist: Dhenkanal.

First Party-management.

AND

Their workman Sri Jagmohan Mishra, represented through Jagannath Colliery Labour Union, At/P.O. Balanda, Distt. Dhenkanal.

...Second Party-workman.

APPEARANCES:

Sri R. K. Katara, Personnel Manager.—For the first party-management.

Sri B. B. Pati, General Secretary of the Union.—For the second party-workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause(d) of sub-section(1) and sub-section(2A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947) have referred the following dispute for adjudication vide their Order No. L-22012(132)/88-D.IV.(B) dated 17-1-89:—

"Whether the action of the management of Jagannath Colliery of M/s. South Eastern Coal-fields Ltd., Talcher in superseding Sri Jagmohan Mishra, Pharmacist Grade-II in service and refusing him to promote to the post of Pharmacist Grade-I is justified? If not, to what relief the workman concerned is entitled?"

2. The case of the workman may succinctly be stated as follows:—

The workman joined his service as a Pharmacist Grade-II in the management of Central Coal-fields Ltd., which is now being known as South Eastern Coalfields Ltd., Talcher on 13-8-80 and was posted at Handidhwa Colliery. About eight months thereafter Sri H. Khuntia, one of the second parties in the present proceeding joined as a Pharmacist in the same grade. Pharmacist Grade-I being a senior post selection is held and promotion given from amongst the Pharmacist Grade-II. The management overlooking the seniority of the workman promoted Sri Khuntia on 29-2-87 who is admittedly junior to him in service. It is the further case of the workman that the minimum qualification prescribed for the post of Pharmacist Grade-I is that one should be a Matriculate with diploma in Pharmacy and must have registered his name with the concerned Council. In so far as he is concerned, he has requisite qualification to be promoted to the said post. According to him, he passed High School Certificate examination 1969 and diploma in Pharmacy in 1971. He also registered his name with the Council in 1971. On the other hand, Sri Khuntia passed the High School Certificate Examination in 1974, diploma in Pharmacy in 1979 and in the same year registered his name with the Council.

In the premises, the workman has urged that the action of the management in promoting his junior, namely, Sri Khuntia by superseding him is illegal, discriminatory and violative of the principles of natural justice. Hence, it is prayed that he should be promoted to the post of Grade-I Pharmacist from 24-2-87 and be given all pecuniary benefits admissible under law.

3. The management admitting that the workman was senior to Sri Khuntia and the minimum qualification for a Grade-I Pharmacist is matriculation with diploma in Pharmacy pleads inter-alia that Sri Khuntia is I.Sc. whereas the workman is a Matriculate. In 1985-86 a Promotional Committee was constituted comprising senior officers for selection of Pharmacist Grade-I from amongst eligible Grade-II Pharmacists. The said Committee held its meeting on 18-4-86 and the cases of five Grade-II Pharmacists including the present workman as well as Sri Khuntia were taken into consideration. The Committee having considered the qualification both educational and technical as well as experience and performance put Sri Khuntia above the workman in the graduation list and subsequently when a post of Grade-I Pharma-

cist fell vacant Sri Khuntia was given promotion. After Sri Khuntia's promotion when another post of Grade-I Pharmacist fell vacant, the workman could get promotion on 0-4-89. It is further urged by the management that merely because the workman was senior to Sri Khuntia he can not claim as a matter of right to be promoted to Grade-I Pharmacist and in this view of the matter, he is not entitled to any relief sought for in the present proceeding.

4. Sri Khuntia being a necessary party to the proceeding was noticed to have his say. Accordingly, he appeared and filed his written statement. Without disputing the claim of the workman he pleads that on being considered by the Departmental Promotion Committee the management promoted him to Pharmacist Grade-I with effect from 27-2-87. He further urges that he is more qualified than the workman. According to him, he has passed I.Sc. and subsequently B.A. in 1984 whereas the workman is mere a Matriculate.

5. In view of the pleadings of the parties, it is only to be decided as to whether the action of the management in superseding the workman and refusing him promotion to the post of Pharmacist Grade-I is legal and justified.

6. Admittedly, the aggrieved workman is senior to Sri Khuntia but the Departmental Promotion Committee while considering the case of the workman as well as Sri Khuntia for promotion from Grade-II to Grade-I Pharmacist placed the workman below Sri Khuntia. The report of the D. P. C. marked Ext. A, and the marks obtained by each of the candidate in the said Committee, Ext. AII would reveal that the performance of the workman as well as Sri Khuntia for consecutive three years was rated 'very good' and so both of them secured 16 marks each. As regards the service experience is concerned, the workman secured 33 whereas Sri Khuntia secured 30. From the aforesaid marks secured by them it appears that the workman stands in a better footing than Sri Khuntia but in spite of that he was kept below to Sri Khuntia because of his being educationally less qualified for which the Committee gave him no mark whereas Sri Khuntia could get 5 marks for his being educationally more qualified. From the aforesaid documents, it is made clear that as because Sri Khuntia is more qualified than the workman in other words Sri Khuntia possesses I. Sc. qualification, he was kept in Sl. No. 4 and the workman in Sl. No. 5 of the gradation list.

One of the members of the Selection Committee on being examined on behalf of the management admits that Sri Khuntia for his having more educational qualification was kept in Sl. No. 4 and the workman being merely a Matriculate was kept in Sl. No. 5 of the gradation list. Requisite conditions for considering the question of promotion from Grade-II to Grade-I Pharmacist are that, one must be a Matriculate with Diploma in Pharmacy and in addition thereto he must have five years experience as Grade-II Pharmacist. Even a Pharmacist who is a non-matriculate can also be considered for promotion provided he has passed Diploma in Pharmacy and possessed ten years experience as Grade-II Pharmacist. From the evidence of the management's witness No. 1 as well as the report of the D. P. C., Ext. A, it is not borne out that a Grade-II Pharmacist who possesses more educational qualification would be considered for promotion even if he is junior to others.

Educational qualification is not the sine-qua-non to consider either for initial appointment or for promotion to a higher post. More particularly while deciding the question of promotion higher educational qualification unless has nexus to the post does not deserve any special consideration. What should weigh with the authority to find one eligible for promotion to a higher post is his talent, efficiency, sincerity, devotion to duty and over and above his seniority. It is the common experience that even a person possessing higher educational qualification on being initially appointed to a particular service sometimes is not found up to mark. On the contrary, one having minimum prescribed qualification rather proves him to be more efficient. So there is no logic in saying that merely because one is educationally more qualified than his colleague he should be promoted to a higher post even if he is not otherwise eligible.

7. In the case at hand, considering the overall evidence led by the parties, I am of the opinion that the performance of the aggrieved workman for consecutive three years being very good and he having possessed more experience than Sri Khuntia, the D.P.C. in all fairness should have kept him in Sl. no. 4 and Sri Khuntia in Sl. No. 5 of the gradation list. The management also mechanically accepted the report of the D.P.C. and gave promotion to Sri Khuntia to Grade-I Pharmacist who is admittedly junior to the workman and this action of the management, in my opinion is discriminatory and against the principles of natural justice.

8. In view of what has been stated above, I hold that the aggrieved workman Sri Misra shall be deemed to have been promoted to Pharmacist Grade-I with effect from 29-2-87. Accordingly, the management should give him all promotional benefits from the aforesaid date and maintain his seniority by keeping him above Sri Khuntia.

The reference is answered accordingly.

Dictated and corrected by me.

R. K. DASH, Presiding Officer

नई दिल्ली, 8 दिसम्बर, 1992

का. भा. —45—औद्योगिक विवाद अधिनियम 1947 (1947 (का. 14) की धारा 17 के अनुसार मे, केंद्रीय सरकार औद्योगिक क्षेत्रों में सब एरिया ऑफ आर्ट्स की ऐसी एरिया आफ नैचुरल एंड आर्ट्स के प्रत्येक के सब विभागों को जो उक्त कानून के अन्तर्गत में निर्दिष्ट औद्योगिक विकास में केंद्रीय सरकार औद्योगिक अधिनियम, भुवनेश्वर के पंचपट को प्रभावित करती है, जो केंद्रीय सरकार का 7/12/92 का आदेश द्वारा था।

[संख्या ए.टी-24012/55/83-डी IV (बी)]

राजा लाल, ईक अधिकारी

New Delhi, the 8th December, 1992

S.O. 45.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Orient Colliery Sub Area of Ib Valley Area of M/s. SEC Ltd. and their workmen, which was received by the Central Government on 7-12-92.

[No. L-24012/55/83 D-IV(B)]

RAJA LAL, Desl Officer

ANNEXURE

INDUSTRIAL TRIBUNAL : ORISSA : BHUBANESWAR
PRESENT :

Sri R. K. Dash, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 38 OF 1988 (Central)
Dated, Bhubaneswar, the 21th October, 1992.

BETWEEN

The Management of Orient Colliery, Sub-Area-I of Ib Valley Area of M/s. South Eastern Coalfields Ltd., P.O. Brajrajnagar, Distt: Sambalpur.

—First party management.

AND

Their workmen Sri Surendra Naik, Slo: Pargurua Naik, At: Khukharikaat, P.O. Rampur Colliery, Distt: Sambalpur.

—Second Party workman.

APPEARANCES :

Sri P. P. Panda, Advocate - For the first party-management.

Sri R. N. Devta, Advocate - For the second party-workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication by this Tribunal vide their order No. L-24012/55/88-D. IV. B dated 6-10-88.—

“Whether the action of the management of Ib River Colliery of M/s S.E.C.Ltd., Ib Valley Area, Distt: Sambalpur, Orissa in terminating the services of Sri Surendera Naik w.e.f. 12-6-1980 is lawful and justified? If not, to what relief the workman concerned is entitled?”

2. Briefly stated the case of the workman is that the management of Orient Colliery of Ib Valley Area of M/s. South Eastern Coalfields Ltd. terminated his services on the allegation of his remaining frequent absent from duty without giving any information or obtaining leave from the competent authority. Admitting that he was charge-sheeted by the management on the above ground of alleged misconduct, he however pleads that he could not explain about his absence because of his illness for which he was undergoing treatment in the headquarters hospital, Sambalpur. But after being cured when he went with fitness certificate to join his duty he was not allowed by the management and at last his services were terminated without there being any enquiry. He, therefore, prays that his termination of service being illegal and arbitrary, he be reinstated with full back wages and other ancillary benefits.

3. Challenging the maintainability of the reference, the Management has pleaded inter-alia that the workman was a Badli loader who for his misconduct was dismissed from service in 1980. He remained content with this order and did not challenge in any forum within reasonable time. Only after lapse of seven and half years he raised the present dispute which according to the management, has become stale.

Giving out the details of the misconduct, the management has urged that during tenure of his employment the workman habitually absented himself from duty without sanction of any leave or prior intimation for which was charge-sheeted and asked to show-cause. As he remained silent and did not submit any explanation he was cautioned not to commit such misconduct in future. But despite of that he did not mend his attitude and resume duty and so, he was finally removed from service as because he was no more interested in the job.

In the premises as aforesaid, the management urges that the action taken against the workman being legal and justified should not be interfered with.

4. Keeping in view the pleadings of the parties, the following issues are settled :—

ISSUES

- (1) If the reference is maintainable?
- (2) If the action of the management of Ib River Colliery of M/s. S.E.C.Ltd., Ib Valley Area in terminating the services of Shri Surendera Naik w.e.f. 12-6-80 is lawful and justified?
- (3) To what relief, the workman concerned is entitled?

5. In so far as the maintainability of the proceeding is concerned, there having no evidence led by the management it has to be held that the management does not press this issue and therefore, no finding is necessary to be given in that regard.

6. The next question remains to be considered is whether the action of the management in terminating the services of the workman is legal and justified.

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It is the case of the management that the workman being a habitual absentee his services were done away with on 12-6-80. The workman on the other hand pleads that being ill he underwent treatment in the head quarters hospital, Sambalpur from 12-5-80 to 13-6-80 for which he could neither inform the management nor join his duty. But the management without conducting any enquiry took a hasty decision and dismissed him from service. It is admitted by the workman that during his absence he was served with certain orders by the management. Of those orders, one is dated 17-5-80 which is marked Ext. A/1. From the said order it appears that he was asked to explain within three days from the receipt thereof as to why he remained absent from duty for more than ten days in February, March and April, 1980. The next order is dated 29-5-80 under which he was warned not to repeat the same offence in future. On receipt of this warning letter he ought to have intimated the management and applied for leave if actually he was ill and was unable to attend to his duty, but that was not done. There was no material available with the management by the time of terminating his services that he being ill was unable to move out. That apart, the plea of the workman that he was being treated for his ailment in the headquarters hospital, Sambalpur is not supported by any acceptable evidence save and except a medical certificate Ext. 1 which had not seen light of the day before xerox copy thereof was produced in this Tribunal in 1988 along with the statement of claims. If in fact such a certificate was with him, he could have without any time-lag sent the same to the management and prayed for leave. But he did not do so. Even after the termination of his services and before the present dispute was raised he did not ventilate his evidence and satisfy the management by producing the medical certificate that being ill he could not be able to attend to his duty. During cross-examination though he speaks to have brought the fact of his illness to the management's notice but he has led no acceptable evidence in proof thereof. In the premises, I would hold that there is no cogent and reliable evidence that he was suffering from appendicitis as mentioned in the certificate, Ext. 1 and underwent treatment in the headquarters hospital, Sambalpur. Such certificate, in my Opinion, has been procured at a belated stage for the purpose of the present case.

7. The next question arises whether absence of the workman from duty as urged by the management is a misconduct.

What amounts to 'misconduct' has been defined in the Standing Orders of the management. Under Clause (o), continuous absence for more than ten days without permission or satisfactory cause amounts to misconduct. In the present case, as mentioned earlier, the workman remained absent from duty for more than ten days in the month of February, March and April, 1980 for which he was charge-sheeted and asked to show-cause but on his failure to give reasonable explanation he was let-off with a warning. On receipt of the aforesaid warning letter, he should have changed his attitude and resumed duty but he did not. He continued to remain absent as before and when the period of his absence again exceeded ten days the management without finding any other alternative removed him from service by order dated 12/13-6-80. In a peculiar case of this nature, in my opinion, no further enquiry was necessary before putting an end to the service of the workman.

8. In view of my discussions made above, I hold that the action of the management of Orient Colliery, Sub-Area-I of Ib Valley Area of M/s South Eastern Coalfields Ltd. in terminating the services of the workman is legal and justified.

The reference, is thus, answered accordingly.
Dictated & Corrected by me.

R. K. DASH, Presiding Officer.

नई दिल्ली, 8. दिसम्बर, 1992

का. घा. 46.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, न्द्रीय सरकार

फूड कॉर्पोरेशन ऑफ इंडिया के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केंद्रीय सरकार, औद्योगिक अधीकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केंद्रीय सरकार को 7 दिसम्बर, 1992 को प्राप्त हुआ था।

[संख्या एल. 42012/5/83 डी IV(बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 8th December, 1992

S.O. 46.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on 7-12-1992.

[No. L-42012/5/83-D.IV (B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU, MADRAS

Tuesday, the 29th day of September, 1992

PRESENT :

Thiru M. Gopalaswamy, B.Sc., B.L., Industrial Tribunal.
Industrial Dispute No. 64 of 1984

[In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of Food Corporation of India, Madras-6].

BETWEEN

Thiru V. Ramadevan, No. 6, Mandapam Road, III Lane,
Kilpauk, Madras-600010.

AND

The Senior Regional Manager, Food Corporation of India,
5/54, Cheames Road, Madras-600006.

REFERENCE :

Order No. L-42012/5/83-D.IV(B)/DV, dated 21-7-84
of the Ministry of Labour and Rehabilitation, Department Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Tuesday, the 1st day of September, 1992, upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru S. Vaidyanathan for Thiruvalargal Row and Reddy, Advocates appearing for the workman and of Thiru N. V. Balasubramanian, Advocate appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

This dispute between the workman and the management of Food Corporation of India, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947, by the Government of India, in its Order No. L 42012/5/83-D.IV(B)/DV, dated 21-7-1984 of the Ministry of Labour and Rehabilitation for adjudication of the following issue :

"Whether the action of the management of Food Corporation of India, Madras in not giving opportunity to offer himself for re-employment to the retrenched NMR workman Shri V. Ramadevan at FCI, Sholovaram is justified ? If not, to what relief is the workman concerned entitled ?"

(2) Petitioner workman states as follows :

The Respondent appointed the Petitioner-workman as Work Assistant on NMR basis with effect from 21-2-1977. Following the procedure then prevailing, the Respondent made appointment of the Petitioner and other workman also without approaching the Employment Exchange. All of a sudden, the Respondent terminated the services of the Petitioner with effect from 1-12-1977 without giving any reason and by not observing provisions of Section 25-F of the Industrial Disputes Act. In the job vacated by the Petitioner, the Respondent has employed a new recruit violating Section 25-H of the I. D. Act. All the representations made by the Petitioner were in vain. The Respondent seems to have relied on a Staff Regulation as amended for appointing on a regular basis workmen who were already casually employed upto 25-1-1976 without insisting upon the Employment Exchange sponsoring their names. The benefit of this provision should have been given to the Petitioner also. The Respondent has erred by claiming that the Petitioner can be considered for re-appointed under the amended regulation only if he was sponsored by the Employment Exchange. The Petitioner raised a dispute under Section 2-A of the Industrial Disputes Act. The Petitioner has put in more than 240 days of work. The Respondent has wrongly claimed by relying upon the bonus bill register particulars that the Petitioner did not put in 240 days of work in order to claim the benefit of Section 25-F of the I. D. Act. The calculation of number of working days of the Respondent is erroneous. Due to the negative attitude of the Respondent conciliation talks failed. Retrenchment of the Petitioner by the Respondent and Respondent's failure to consider the Petitioner for re-employment are illegal. An award may be passed for re-instatement of the Petitioner in service, giving him back wages continuity of service and other attendant benefits.

(3) The Respondent in his counter statement, states as follows :

Petitioner was appointed as a Work Assistant on a casual basis and with the status of NMR employee on daily wage basis. He was not employed through the Employment Exchange. The total number of working days worked by him is just 234 days. Since the muster rolls for two months is not available. Bonus bill Register entries which are taken from the muster-rolls, were used for calculating the total number of working days of the Petitioner. There is no error in such a calculation. Under the amended provisions of the FCI Staff Regulations, the Respondent cannot recruit former casual workers except through Employment Exchange if they had been engaged casually after 25-1-76. Casual workmen recruited upto 25-1-76 alone, could be absorbed as regular employees as provided under the amended Staff Regulations. Therefore, the Respondent's refusal to consider the Petitioner initially engaged on 21-2-77 for re-employment unless he was sponsored by the Employment Exchange is just and valid. The Respondent has not violated Section 25-F and other provisions of the I. D. Act. The Petitioner is not entitled to any relief and the claim is liable to be dismissed.

(4) The points for determination are as follows :

1. Whether the retrenchment of the Petitioner with effect from 1-12-1977 is just and lawful ?
2. Whether the Respondent's refusal to reemploy the Petitioner on a regular basis without insisting upon sponsoring through the Employment Exchange is lawful ?
3. To what relief ?

5. POINTS 1 to 3—The Petitioner Thiru Rama Devan did not give oral evidence. The Respondent examined his Assistant Manager (Civil Engineering) as MW1. Exs. W-1 to W-10 and M-1 to M-10 have been marked. Admittedly the Peti-

tioner Rama Devan was appointed in the service of the Respondent as Work Assistant on a daily wage of Rs. 12.82 on NMR basis with effect from 21-2-1977, under Ex. W-1 order. He was allowed to work till 30-11-77 and he was terminated from service from 1-12-77 onwards. From the conciliation report Ex. W-8 and other materials we understand that the Respondent has taken a stand that the Petitioner has worked only for 234 days and not 240 days. MW-1 has testified that the muster rolls relating to April 1977, and November, 1977 have been lost and hence they relied on the Bonus Bill Register Ex. M-3 for calculating the number of working days put in by the Petitioner as 24 days in April, 1977 and as 21 days in November, 1977. Adding these 45 days, to the number of working days in other months as disclosed by the muster rolls MW-1 has told that the Petitioner did work only for 234 days in all. I accept this evidence as reliable and find that it is proof of the fact of the number of working days amounting to 234 days only. Thus the total number of working days falls short of the minimum 240 days required by Section 25-F of the I. D. Act. It follows that the Respondent is not obliged to apply the provisions of Section 25-F and pay compensation to the workman who has put in only 234 days of work.

(6) Exs. M-6 and M-7 are circulars communicating the amendment namely addition of a proviso to regulation 9(a) of F.C.I. Staff Regulation. This amended Regulation coupled with the circular Ex. M-8 makes it clear that the Respondent was required to appoint such of those casual workers who have been already engaged upto 25-1-76 and then disengaged without calling upon them to come through the Employment Exchange but they can appoint the remaining class of casual employees initially recruited after the cut-off date 25-1-76 only if they were sponsored by the Employment Exchange. Therefore, the Respondent has acted properly by observing the amended Regulation 9(a) when he did not consider the Petitioner for re-employment on a regular basis in the absence of his sponsorship through the Employment Exchange. There is no illegality either in the retrenchment of the Petitioner or in denial of employment after retrenchment in the light of Section 25-II of I. D. Act. The cases of Kunhi Lakshmi and Kamatchi who have been recruited on regular basis through the Employment Exchange as shown by Exs. M-9 and M-10 are different from the case of the Petitioner. We further find from Ex. M-4 that the Petitioner has been employed under Spencer and Company, Madras after his retrenchment by the Respondent. I therefore, hold that the acts of the Respondent in retrenching the Petitioner and in not considering him for re-appointment on a regular basis are lawful and just, and that the Petitioner is not entitled to any relief. The points are answered accordingly.

(7) In the result, an award is passed dismissing the claim of the workman. No cost.

Dated, this 29th day of September, 1992.

THIRU M. GOPALASWAMY, Industrial Tribunal

WITNESSES EXAMINED

For workman :

None.

For Management :

MW-1—Thiru S. Pakkirisamy.

DOCUMENTS MARKED

For Workman :

Ex. W-1/19-2-77—Appointment order issued to Thiru V. Ramadevan as Work Assistant (copy)

Ex. W-2/29-1-81—Letter from Thiru V. Ramadevan to the management requesting to reinstate him in service (Copy).

Ex. W-3/18-1-82—Memorandum of Settlement u/s. 12 (3) of the I. D. Act, 1947 between five workmen and the Management (copy)

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Ex. W-4/23-6-82—Memorandum engaging "Nominal Muster Roll Staff" (copy)

Ex. W-5/8-11-92—Letter from Thiru V. Ramadevan to the Management requesting to reinstate him in service (copy)

Ex. W-6 — —Dispute raised by Thiru V. Ramadevan before the Regional Labour Commissioner (Central) Madras (copy)

Ex. W-7/5-7-83—Reply filed by the Management to W-6 before the Assistant Labour Commissioner (C) II, Madras (copy)

Ex. W-8/12-8-83—Conciliation Failure report (copy)

Ex. W-9/30-10-87—Circular issued by the Management regarding recruitment to the post of Works Assistant from qualified Departmental Class III and IV staff-xerox (copy)

Ex. W-10/15-2-91—Appointment order issued to Thiru K. P. Adaikkalasamy as Work Assistant (xerox copy)

For Management :

Ex. M-1/6-7-83—Letter from Thiru V. Ramadevan to the Regional Labour Commissioner (Central) Madras (xerox copy).

Ex. M-2/16-8-82—Conciliation Failure Report (xerox copy)

Ex. M-3 — —Electrical Branch Expenditure Register showing NMR Salary bonus bill particulars.

Ex. M-4/15-5-87—Letter from the Management to the Director, Spencer and Co. Madras-2, requesting to furnish the Service particulars of Thiru V. Ramadevan in Spencer and Co.

Ex. M-5/23-5-87—Reply by Spencer consumer products and Services Ltd. Madras to Ex. M-4.

Ex. M-6/4-2-76—Gazette Notification to amend the Food Corporation of India (Staff) Regulations, 1971 (xerox copy)

Ex. 7/11-2-76—Circular of the Management which has decided to add further proviso to Regulation 9(a) (xerox copy)

Ex. 8/7-9-77—Circular issued by the Personnel Manager about the regulation 9(a) and its subsequent amendment (xerox copy)

Ex. M-9/21-1-78—Appointment order issued to Miss R. Kamatchi as works Assistant (Skilled), xero copy.

Ex. M-10/21-1-78—Appointment order issued to Miss P. Kunhi Lakshmi as Work Assistant (skilled) xerox copy.

नई दिल्ली, 11 दिसम्बर, 1992

का. धा. 47.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपबन्धों के अनुसरण में भारत सरकार अथवा मंत्रालय की अधिसूचना सं. 1836 दिनांक 11 जून, 1992 द्वारा श्रेणीय ग्रामीण बैंक अधिनियम, 1976 की धारा 3 के अन्तर्गत स्थापित श्रेणीय ग्रामीण बैंक द्वारा चलाये जा रहे बैंकिंग उद्योग को उक्त अधिनियम के प्रयोजनार्थ 13 जून, 1992 से छः मास की कालावधि के लिये लौट उपयोगी सेवा प्रोषित किया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिये बढ़ाया जाना अपेक्षित है,

धन : अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के परन्तुक द्वारा प्रयुक्त

शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनार्थ 13 दिसम्बर, 1992 से छः मास की और कालावधि के लिये लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/2/85-डी-1(ए)]

एस. एस. पराशर, अवर सचिव

New Delhi, the 11th December, 1992

S.O. 47.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S. O. No. 1836 dated the 11th June, 1992 the Banking Industry as carried on by a regional rural bank established under section 3 of the Regional Rural Banks Act, 1976, to be public utility service for the purpose of the said Act, for a period of six months from the 13th June, 1992;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 13th December, 1992.

[No. S-11017/2/85-D.I(A)]

S. S. PRASHER, Under Secy.

का. प्रा. 48.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. प्रा. 1837, दिनांक 16 जून, 1992 द्वारा तांबा खनन को उक्त अधिनियम के प्रयोजनों के लिए 10 जुलाई, 1992 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है,

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 10 जनवरी, 1993 से छः मास की लिए उपयोगी सेवा घोषित करती है।

[का. सं. एस-11017/7/85 आई प्रार (नीति)]

एस. एस. पराशर, अवर सचिव

New Delhi, the 21st December, 1992

S.O. 48.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour No. 1837 dated the 16th June, 1992 the Copper Mining Industry to be a public utility service for the purposes of the said Act, for a period of six months, from the 10th July, 1992;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 10th January, 1993.

[No. S-11017/7/85-I.R.(Policy)]

S. S. PRASHER, Under Secy.

नई दिल्ली, 21 दिसम्बर, 1992

का. प्रा. 49.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या 1838 दिनांक 24 जून, 1992 द्वारा मैग्नेसाइट खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 3 जुलाई, 1992 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग की उक्त अधिनियम के प्रयोजनों के लिए 3 जनवरी, 1993 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[का. सं. एस-11017/8/85-डी-1 (ए)]

एस. एस. पराशर, अवर सचिव

New Delhi, the 21st December, 1992

S.O. 49.—Whereas the Central Government having been satisfied that the public interest as required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 1838 dated the 24th June, 1992 the Magnesite Mining Industry to be a public utility service for the purposes of the said Act, for a period of six months, from the 3rd July, 1992;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 3rd January, 1993.

[No. S-11017/8/85-D.I(A)]

S. S. PRASHER, Under Secy.

नई दिल्ली, 21 दिसम्बर, 1992

का. प्रा. 50.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रत्यक्षन के संबंध विद्योक्तों और उनके कार्य-कारों के बीच, अनुबंध में निहित औद्योगिक विवाद, में श्रम न्यायालय अर्न्तकृत के संवद को प्रकाशित करती है, जो केन्द्रीय सरकार की 7 दिसम्बर, 1992 को प्राप्त हुआ था।

[संख्या एस-17012/10/89 आई प्रार बैंक - I]

जी. के. वेणुगोपालन, बैंक अधिकारी

New Delhi, the 11th December, 1992

S.O. 50.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the mgt. of LIC of India and their workmen, which was received by the Central Government on 7-12-92.

[No. L-17012/16/89-IR(BD)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT,
ERNAKULAM

(Labour Court, Ernakulam)

(Wednesday, the 25th day of November, 1992)

Present :

Shri M. V. Viswanathan, B.Sc., LL.B., Presiding Officer.

Industrial Dispute No. 18 of 1989 (C)

BETWEEN

The Senior Divisional Manager, LIC of India, Divisional Office, Jeewan Prakash, P.B. No. 1133, M. G. Road, Ernakulam, Cochin-682 011.

AND

The General Secretary, LIC Employees Union, Ernakulam Division, C/o LIC of India, P.B. No. 1133, Ernakulam, Cochin-682 011.

Representation :

M/s. M. Ramachandran & P. V. Abraham, Advocate,
Kochi-17. . . For Union

AWARD

This industrial dispute was referred to this court by the Central Government as per the order No. L-17012(16)/89-IR (B)-I dated 9-10-1989. The dispute is between the management of L.I.C. of India, Ernakulam and their workmen represented by the General Secretary, LIC Employees' Union Ernakulam Division. The issue referred for consideration is "whether the action of the Sr. Divisional Manager, LIC of India, Ernakulam Division in shifting one more vacancy of Higher Grade Assistant bringing the total sanctioned vacancies at the Vandiperiyar Branch to four against the sanctioned three vacancies is justified and if not to what relief the concerned workmen are entitled?"

2. Both the Management and Union entered appearance. The union filed claim statement alleging that the action of the Sr. Divisional Manager in shifting the vacancy of the Higher Grade Assistant to Vandiperiyar as unauthorised and unjustifiable. The management filed their objection supporting the action taken by the Senior Divisional Manager as just, proper and authorised. It is further stated that the aggrieved workman Sri Xavier has been posted to Ernakulam and he joined as Higher Grade Assistant in branch No. II Ernakulam on 31-7-1990. So the management contended that at present there is no dispute to be adjudicated by this court.

3. The counsel for the union filed a memo to the effect that at present the union is not interested to proceed with this dispute. This court is pleased to record the said memo dated 18-11-1992. This court is of the view that at present there is no existing dispute in this matter.

4. In the result, an award is passed holding that there is no subsisting industrial dispute between the parties to this reference.

Ernakulam,
25-11-1992.

M. V. VISWANATHAN, Presiding Officer

शुद्धि पत्र

सई दिनांक, 11 दिसम्बर, 1992

का. आ. 51.—भारत के राजपत्र के भाग II खण्ड, 3 उप-खण्ड (1) में दिनांक 25 जुलाई, 1992 की प्रकाशित, भारत सरकार, श्रम मंत्रालय के दिनांक 9 जुलाई, 1992 की अधिसूचना संख्या सा. का. नि. 341 में पृष्ठ संख्या 1306 के कॉलम 1 में पंक्ति संख्या 50 में संख्या "2" के लिए "1" पढ़े।

[संख्या एस-35012/3/91-एस-एस-II]

जे. पी. शुक्ला, धवर सचिव

CORRIGENDUM

New Delhi, the 11th December, 1992

S.O. 51.—In the notification No. GSR 341 dated 9th July, 1992 of the Government of India in the Ministry of Labour published in the Gazette of India, Part-II Section 3, sub-section (i) on 25th July, 1992 in column I of page No. 1306 in line 50 for the figure "2" read "1".

[No. S-35012/3/91-SS-II]

J. P. SHUKLA, Under Secy.

सई दिनांक, 21 दिसम्बर, 1992

का. आ. 52.—यह मिस्रों प्रसारित एडवर्टाइजिंग एण्ड मार्केटिंग (प्रा. नि.) 228 अधिनियम जवाहर लाल नेहरू रोड, कलकत्ता 700020 (शाखाओं सहित) (इसके अगले जहाँ कहीं भी उक्त स्थापना शब्द का प्रयोग हो इसमें अधिप्राप्त श्रम स्थापना से है) के कार्यालय भविष्य निधि और प्रकरण अधिनियम, 1952 (1952 का 19) (इसके अगले उक्त अधिनियम के नाम से निर्दिष्ट) की धारा 17 की उप-धारा (1) के खंड (क) के अंतर्गत छूट प्राप्त करने के लिए आवेदन किया है।

यह केन्द्र सरकार का राय में उक्त स्थापना के कार्यवाहियों के लिए तैयार किए गए भविष्य निधि नियमों में अंशमन की दर उक्त अधिनियम की धारा 6 में उल्लिखित कार्यवाहियों अंशमन का दर से कम नहीं है तथा इसके कारणों की मितवर्ती बताने भविष्य निधि लाभ उक्त अधिनियम तथा कार्यवाहियों भविष्य निधि स्वयं, 1952 (इसके अगले जहाँ कहीं भी एल.म. शब्द का प्रयोग किया गया है) उक्त अधिप्राप्त उक्त एल.म. से है) में उल्लिखित लाभों से किताबों प्रसार से कम नहीं है जो इन नई क. स्थापनाओं में कार्यरत कार्यवाहियों का आलम्ब है।

अब इनमें उक्त अधिनियम की धारा 17 की धारा 17 के खंड (क) द्वारा प्रदत्त शर्तों का प्रयोग करने हुए और संलग्न अनुसूची में उचित जहाँ के अधिनियम केन्द्र सरकार इसके द्वारा उक्त स्थापना को उक्त स्वयं के तमाम अवस्था के लागू होने से छूट प्रदान करना है।

शुभरात्र

1. उक्त स्थापना में संबंधित नियंत्रण केन्द्र सरकार के द्वारा समय दिया गए निर्देश के अनुसार उक्त अधिनियम की धारा 17 की उपधारा (3) के खंड (क) में उल्लिखित निरीक्षण के लिए मुनिधाय

प्रसार करेगा और ऐसे निरीक्षण प्रसार को अंशदानों प्रत्येक माह को समाप्ति के 15 दिन के अन्दर करेगा।

2. न-छूट प्राप्त स्थापनाओं के संबंध में उक्त अधिनियम और उनके अधीन सृजित उक्त स्कीम के अंतर्गत वेम अंशदान की दर से स्थापना के भविष्य निधि नियमों के अंतर्गत वेम अंशदान को दर किसी समय भी कम न होगी।

3. योजनाओं के मामले में छूट प्राप्त स्थापना की स्कीम कर्मचारी भविष्य निधि स्कीम, 1952 से कम हितकर नहीं होगी।

4. उक्त स्कीम में कोई भी संशोधन जो स्थापना के वर्तमान नियमों से अधिक लाभकारी है उन पर अपने आप लागू किया जाएगा। उक्त स्थापना के भविष्य निधि नियमों में कोई भी संशोधन, क्षेत्रीय भविष्य निधि प्रायुक्त को पूर्ण अनुमति के बिना नहीं किया जाएगा और जहां किसी संशोधन से उक्त स्थापना के कर्मचारियों के हित के प्रतिकूल प्रभावी होने का सम्भावना है वहां अपनी अनुमति देने से पूर्व क्षेत्रीय भविष्य निधि प्रायुक्त कर्मचारियों को अपने विचार प्रस्तुत करने का उचित अवसर देगा।

5. यदि स्थापना को छूट न दी जाती तो वे सभी कर्मचारी [जैसे उक्त अधिनियम की धारा 2(ब) में निर्दिष्ट किया गया है] जो सदस्य बनने के पात्र होने, सदस्य बनाए जाएंगे।

6. जहां एक कर्मचारी जो कर्मचारी भविष्य निधि (कानूनी) या किसी अन्य छूट प्राप्ति स्थापना का पहले से सदस्य है, को अपनी स्थापना में काम पर लगाया जाता है तो नियमों उसे निधि का न्यूनतम सदस्य बनाएगा और ऐसे कर्मचारी के पिछले, निर्गमन के पास भविष्य निधि लेखों में संचयों को अंतरित कराने और उसके लेखों में जमा कराने का व्यवस्था करेगा।

7. केन्द्रीय भविष्य निधि प्रायुक्त के द्वारा अथवा केन्द्रीय सरकार के द्वारा जैसे भी मामला हो, समय-समय पर दिए गए निदेशों के अनुसार भविष्य निधि के प्रबंध के लिए निर्दिष्ट न्यासी बोर्ड की स्थापना करेगा।

8. भविष्य निधि, न्यासी बोर्ड में निहित होगी जो अन्य बातों के होते हुए भविष्य निधि में प्राप्त के उचित लेखों और भविष्य निधि से अदायगी और उनकी अभिरक्षा में सेवा के लिए कर्मचारी भविष्य निधि संगठन के उत्तरदायी होगी।

9. न्यासी बोर्ड कम से कम 3 माह में एक बार बैठक करेंगे और केन्द्र सरकार द्वारा समय-समय पर जारी किए गए मार्गनिर्देशों के अनुसार कार्य करेंगे। केन्द्रीय भविष्य निधि प्रायुक्त को अधिकार होगा कि वह किसी अन्य योग्य लेखा परीक्षक से खातों का दुबारा लेखा परीक्षा कराए और ऐसे पुनः लेखा परीक्षा के अर्थ नियोजन सहन करेगा।

10. न्यासी बोर्ड द्वारा रखे गए भविष्य निधि लेख अर्हता प्राप्त निष्पक्ष चार्टर्ड अकाउन्टेन्ट द्वारा वार्षिक लेखा परीक्षा के अधीन होंगे। जहां आवश्यक समझा जाए, केन्द्रीय भविष्य निधि प्रायुक्त की किसी अन्य अर्हता प्राप्त लेखा-परीक्षा द्वारा लेखों की पुनः लेखा परीक्षा करने का अधिकार होगा और इन पर द्वारा थप नियोजन द्वारा सहन किया जाएगा।

11. प्रत्येक वर्ष स्थापना के लेखा परीक्षित तुल्य-पत्र के साथ लेखा परीक्षित वार्षिक भविष्य निधि लेखों की एक प्रति वित्तीय वर्ष की समाप्ति के छः माह के अन्दर क्षेत्रीय भविष्य निधि प्रायुक्त को प्रस्तुत की जाएगी। इस प्रयोजन के लिए भविष्य निधि का वित्तीय वर्ष पहली अप्रैल से 31 मार्च तक होगा।

12. निर्गमन प्रतिमाह भविष्य निधि के वेम अंश कर्मचारियों के अंशदानों को प्रभावी माह की 15 तारीख तक न्यासी बोर्ड को अंतरित

करेगा। अंशदानों की विलम्ब से अदायगी करने के लिए समान परिस्थितियों में नियोजित। नुकसान होने का उसी प्रकार उत्तरदायी होगा। जिस प्रकार एक न-छूट प्राप्त स्थापना उत्तरदायी होती है।

13. न्यासी बोर्ड सरकार द्वारा समय-समय पर दिए गए निदेशों के अनुसार निधि में जमा राशियों का निवेश करेगा। प्रतिभूतियों या बोर्ड के नाम पर प्राप्त की जाएगी और भारतीय रिजर्व बैंक के जमा नियन्त्रण में अनुमोचित बैंक की अभिरक्षा में रखा जाएगा।

14. सरकार के नियमों के अनुसार निवेश न करने पर न्यासी बोर्ड अलग-अलग रूप से और एक साथ केन्द्रीय भविष्य निधि प्रायुक्त या उसके प्रतिनिधियों द्वारा लगाए गए अधिक प्रसार का उत्तरदायी होगा।

15. न्यासी बोर्ड एक वस्तु-न्यासी रजिस्टर तैयार करेगा और ब्याज और विमोचन आय की समय पर नगूनी सुनिश्चित करेगा।

16. जमा किए गए अंशदानों, निकाले गए और प्रत्येक कर्मचारी से संबंधित बकाया को दिखाने के लिए न्यासी बोर्ड विस्तृत लेख तैयार करेगा।

17. वित्तीय/वित्ता वर्ष की समाप्ति के छः माह के अन्दर बोर्ड प्रत्येक कर्मचारी को वार्षिक लेखा विवरण जारी करेगा।

18. बोर्ड प्रत्येक कर्मचारी को वार्षिक लेखा विवरण के स्थान पर पासबुक जारी कर सकता है। ये पासबुक कर्मचारियों की अभिरक्षा में रहेंगी और कर्मचारियों के प्रस्तुतीकरण पर बोर्ड के द्वारा उन्हें प्राप्ति किया जाएगा।

19. लेखा वर्ष के पहले दिन आदि गेष पर प्रत्येक कर्मचारी के लेखों में ब्याज उस दर से जमा किया जाएगा जिसका न्यासी बोर्ड निर्णय करे परन्तु यह उक्त स्कीम के पैरा 60 के अंतर्गत केन्द्रीय सरकार द्वारा घोषित दर से कम नहीं होगा।

20. यदि न्यासी बोर्ड केन्द्रीय सरकार द्वारा घोषित ब्याज की दर इस कारण से कि निवेश पर आय कम है या किसी अन्य कारण से अर्थ करने में असमर्थ है तो इस कमी को नियोजन पूरा करेगा।

21. नियोजन भविष्य निधि का चोरी के कारण, लूटछाट, खानाबदल अथवा किसी अन्य कारण से हुई हानि को पूरा करेगा।

22. नियोजन और न्यासी बोर्ड, क्षेत्रीय भविष्य निधि प्रायुक्त को ऐसी विवरणियां प्रस्तुत करेगा जो समय-समय पर केन्द्रीय सरकार/केन्द्रीय भविष्य निधि प्रायुक्त निर्धारित करें।

23. उक्त स्कीम के पैरा 69 की शर्तों पर किसी कर्मचारी को निधि के सदस्य न रहने पर यदि स्थापना के भविष्य निधि नियमों में नियोजन के अंशदानों को जमा करने की व्यवस्था है तो न्यासी बोर्ड इस प्रकार अस्त की गई राशियों का अलग से लेखा तैयार करेगा और उसे ऐसे प्रयोजनों के लिए उपयोग करेगा जो केन्द्रीय भविष्य निधि प्रायुक्त को पूर्ण अनुमति से सुनिश्चित किया गया हो।

24. स्थापना के भविष्य निधि नियमों में निर्दिष्ट किसी बात के होते हुए भी यदि किसी व्यक्ति की सेवा निवृत्ति होने के फलस्वरूप या किसी अन्य प्रतिष्ठान में नौकरी करने पर निधि की सदस्यता समाप्त हो जाती है या पता लगता है कि प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत अंशदान की दर संपूर्ण की दर आवि संविक्रि योजन के अंतर्गत दी गई दरों की तुलना में कम अनुकूल है तो अन्तर का अहन नियोजन द्वारा किया जायेगा।

25. नियोजन, भविष्य निधि के प्रशासन से संबंधित सभी खर्च जिसमें लेखों के रखरखाव, रिटर्न प्रस्तुत किए जाने, राशियों का अन्तरण शामिल है, सहन करेगा।

26. नियोजन सृजित प्राधिकारी द्वारा अनुमोचित निधि के नियमों की एक प्रति तथा अंशदानों को संग्रहीत होता है उसकी नक़्क़ आतों को कर्मचारियों के बहुमत की अंश में अनुमति करके स्थापना के बोर्ड पर लाएगा।

27. "संवित्त सरकार" स्थापना की बात छूट पर और शर्त लगा सकती है।

28. यदि उक्त अधिनियम के अंतर्गत स्थापना की प्रक्रिया में उक्त स्थापना होती है, पर अंशदान की दर बढ़ाई जाती है, नियोजित व्यक्ति निम्न अंशदान की दर उचित रूप में बढ़ाएगा, ताकि उक्त अधिनियम के अंतर्गत दिए जाने वाले लाभों से स्थापना की रकम के अंतर्गत दिए जाने वाले वित्तीय विधि के तहत किया जा प्रचार से कम न हो।

29. उक्त शर्तों में से किसी एक के उल्लंघन पर छूट रद्द की जा सकती है।

[मं. एम-35015/21/92-एम.एस.-II]

जे.पी. गुप्ता, सचिव

New Delhi, the 21st December, 1992

S.O. 52.—Whereas Messrs, Pressman Advertising & Marketing (P) Ltd., 228 A, Achary Jagadish Ch. Bose Road, Calcutta-700 020 along with its branches (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act);

And whereas in the opinion of the Central Government the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme.

THE SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of section 17 said Act within 15 days from the close of every month.

2. The rate of contribution payable under the provident fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishments and the said Scheme framed thereunder.

3. In the matter of advances, the scheme of the exempted establishment shall not be less favourable than the Employees Provident Fund Scheme, 1952.

4. Any amendment to the said scheme which is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically. No amendment of the rules of the Provident Fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their points of view.

5. All employees (as defined in section 2 of the said Act who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees Provident Fund (Statutory) or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enrol him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the Provident Fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees Provident Fund Organisation inter alia for proper accounts of the receipts into and payments from the Provident Fund and the balances in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or and officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the provident fund shall be from the 1st April to the 31st of March.

12. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an un-exempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of scheduled Bank under the Credit Control of the Reserve Bank of India.

14. Failure to make the investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a script wise register and ensure timely realisation of interest and ensure timely realisation of interest and redemption proceeds.

16. The Board Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of account to every employee within six months of the close of financial accounting year.

18. The Board may, instead of the annual statement of accounts, issue Passbooks to every employee. These passbook shall remain in the custody of the employee and will be brought up-to-date by the Board on presentation by the employee.

19. The account of each employee shall be credited with interest calculated on the opening balance as on the 1st day of the accounting year at such rate as may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason then the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss that may be caused to the Provident Fund due to theft Burglary, defalcation, misappropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employees contributions in cases where an employee ceases to be a member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account on the amounts so forfeited and may utilise the same for such purpose be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding anything contained in the Provident Fund Rules of the establishment, if on the cessation of any individual from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the rate of contribution rate of forfeiture etc., under the P.F. Rules of the establishment are less favourable as compared to these under the statutory Scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of accounts, submission of returns, transfer of accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as when amended thereto alongwith a translation of the salient points thereof in the language of the majority of the employees.

27. The "appropriate Government" may lay down any further conditions for continued exemption of the establishment.

28. The employees shall enhance the rate of provident fund contributions appropriately if the rate of provident fund contribution is enhanced under the said Act so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[No. S-35015/21/92-SS-II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 15 दिसम्बर, 1992

का.प्र. 33.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रसरण में, केन्द्रीय सरकार देहरी रोहतास लाइट रेलवे कम्पनी लि. के प्रबन्धन के संबद्ध निषेधकों और उनके कर्मचारियों के बीच, प्रबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-12-92 को प्राप्त हुआ था।

[एल-51033/14/83-आई.एन.ई.(एन.एन)/डी-2(बी)(पार्ट I)]

के.वी.बी. उष्णी, हेमक अधिकारी

New Delhi, the 15th December, 1992

S.O. 53.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Dehri Rohtas Light Railway Co. Ltd., and their workmen, which was received by the Central Government on 7th December, 1992.

[No. L-51033/14/83-J&E(SS)/D. II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 69 of 1986

PARTIES :

Employers in relation to the management of Dehri Rohtas Light Railway Co. Ltd.,

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—None.

On behalf of the employers—None.

STATE : Bihar.

INDUSTRY : Light Railways

Dhanbad, the 30th November, 1992

AWARD

The Government of India, Ministry of Labour & Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 had referred the following dispute to this Tribunal for adjudication vide their Order No. L-51033/14/83-J&E(SS)/D.II(B) dated, the 21st March, 1984. Subsequently vide Ministry's Order No. S-11025 (5)/85-D.IV(B) dated 14th January, 1986 the said reference was transferred to this Tribunal.

SCHEDULE

"Whether the action of the management of Dehri Rohtas Light Railway Co. Ltd., Dalmianagar (Rohtas) in denying the wages, annual increment and bonus to Shri Mahabir Loco B.T.M. Dalmianagar Workshop, during his suspension period from 11th June, 1971 to 10th December, 1978 is justified? If not, to what relief is the workman entitled?

2. This reference is of the year 1984. I find that the management could file W.S. in the month of April, 1984 denying the claim of the workmen. However, no W.S. could be filed on behalf of the workmen. Even after several notices none of the parties is appearing for the last several dates. It appears that no body is interested in the matter and hence a 'No dispute' Award is passed.

B. RAM, Presiding Officer

नई दिल्ली, 15 दिसम्बर, 1992

का.प्र. 54. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रसरण में केन्द्रीय सरकार देहरी रोहतास लाइट रेलवे कम्पनी लि. के प्रबन्धन के संबद्ध निषेधकों और उनके कर्मचारियों के बीच, प्रबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-12-92 को प्राप्त हुआ था।

[एल-51033/14/83-आई.एन.ई.(एन.एन)/डी-2(बी)(पार्ट I)]

के.वी.बी. उष्णी, हेमक अधिकारी

New Delhi, the 15th December, 1992

S.O. 54.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Dehri Rohtas Light Railway Co. Ltd. and their workmen, which was received by the Central Government on 7th December, 1992.

[No. L-51033/17/83-I&E(SS)/D.II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 71 of 1986

PARTIES :

Employers in relation to the management of Messrs. Dehri Rohtas Light Railway Co. Ltd., P.O. Dalmianagar (Rohtas).

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—None.

On behalf of the employers—None.

STATE : Bihar.

INDUSTRY : Light Railways.

Dhanbad, the 30th November, 1992

AWARD

The Government of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 had referred the following dispute to the Central Government Industrial Tribunal No. 1, Dhanbad vide Ministry's Order No. L-51033/

17/83-I&E(SS)/D.II(B) dated, the 19th March, 1984. But subsequently the said reference was transferred to this Tribunal vide Ministry's Order No. S-11025(5)/85-D.IV(B) dated 14th January, 1986.

SCHEDULE

"Whether the action of the management of Dehri Rohtas Light Railway Co. Ltd., Dalmianagar in not accepting the date of birth of Shri Ganga Prasad as 18th June, 1928 and retiring him from 11th November, 1981 is justified? If not, to what relief is the workman concerned entitled?"

2. This reference is pending since the year 1984 and only the management of Dehri Rohtas Light Railway Company filed W.S. as back as in the year 1984 itself. However, no W.S. could be filed on behalf of the workmen. I further find that for the last several years none of the parties is taking any steps in the matter. This suggests that no dispute exists and hence a 'No dispute' Award is passed.

B. RAM, Presiding Officer

नई दिल्ली, 15 दिसम्बर, 1992

का.प्र. 55.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देहरी रोहतास लाईट रेलवे कम्पनी लिमिटेड के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 धानबाद के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-12-92 को प्राप्त हुआ था।

[सं. एल-51033/15/83-आई.एंड ई (एस एम)/बी. 2(बी)पार्टी]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 15th December, 1992

S.O. 55.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Dehri Rohtas Light Railway Co. Ltd. and their workmen, which was received by the Central Government on 7th December, 1992.

[No. L-51033/15/83-I&E(SS)/D.II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 70 of 1986

PARTIES : Employers in relation to the management of M/s. Dehri Rohtas Light Railway Co. Ltd. and their workman.

APPEARANCES :

On behalf of the workmen

None

On behalf of the employers

None

STATE : Bihar.

INDUSTRY : Light Railways.

Dated, Dhanbad, the 30th November, 1992

AWARD

The Govt. of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10 (1)(d) of the I.D. Act, 1947 had referred the following dispute to the Central Govt. Industrial Tribunal No. 1, Dhanbad vide Ministry's Order No. L-51033/15/83-I&E(SS)/D.II(B) dt. 3-4-84. Subsequently vide Ministry's Order No. S. 11025(51)/85-D.IV (B) dt. 14-1-86 the said reference was transferred to this Tribunal.

SCHEDULE

"Whether the action of the management of Dohri Rohtas Light Railway Co. Ltd., Dalmiagar (Rohtas) in denying proper designation according to the nature of duties and scales of pay attached to the designation to workmen mentioned in Annexure working in different sections of the Company is justified? If not, to what relief are the workmen entitled?"

Sl. No.	Name of workmen	Designation	Claimed designation
1.	Shri Chandradeep.	BTEM	Mason.
2.	Shri Nagdeo	Mason BTM Moulder	Moulder.
3.	Shri Mahesh Sharma	—do—	Moulder.
4.	Shri Ram Sewak Singh	B.T.M. Turner	Turner
5.	Shri Sheonath Sharma	B.T.M. Carpenter	Carpenter
6.	Shri Sundar	—do—	Carpenter
7.	Shri Jagannath	B.T.M. Blacksmith	Blacksmith.
8.	Shri Ramanand	—do—	—do—
9.	Shri Chandraka	B.T.M. Carr. Fitter	Fitter (Carrg.)
10.	Shri Sobhoo	—do—	—do—
11.	Shri Phooldeo Singh	—do—	—do—
12.	Shri Phoolchand	B.T.M. Loco Fitter	Fitter (Loco)
13.	Shri Bhuneshwar	—do—	—do—
14.	Shri Munshi	—do—	—do—
15.	Shri Birjoo	—do—	—do—
16.	Shri Bikrama	—do—	—do—
17.	Shri Dudnath	—do—	—do—
18.	Shri Raj Bali	—do—	—do—
19.	Shri Ram Charitar	—do—	—do—
20.	Shri Mahabir	—do—	—do—
21.	Shri Munshi	B.T.M. Electrician	Electrician

2. This reference is pending since 1984. The management appeared and filed W.S. But no step was ever taken from the side of the workmen. The record shows that a number of notices were sent to the parties for their appearance and to have their say in the matter but they did not turn up and hence a No dispute Award is passed.

B. RAM, Presiding Officer